

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FIFTY-EIGHTH DAY — TUESDAY, APRIL 24, 2001

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 179).

Present — Mr. Speaker; Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Hilbert.

The invocation was offered by Father John Gremmels, pastor, Saint Elizabeth Ann Seton Catholic Church, Keller, as follows:

Holy God, Holy and Mighty, Holy Immortal One, pour out your spirit upon this esteemed legislative body for today's service to the great State of Texas and her people. Grant them the gifts of wisdom, understanding, prudence, and courage to make good and just decisions.

Protect us from knowledge without character, business without morality, pleasure without conscience, science without humanity, politics without principle, and worship without sacrifice. Lord let the pay of these tireless workers be raised to a proper level. And one day let our children again have the privilege of beginning their workday as does this house.

All this we ask of you, as you live and reign as one God, now and forever. Amen.

CAPITOL PHYSICIAN

The speaker recognized Representative Hawley who presented Dr. Ronald G. Munson of Mathis as the "Doctor for the Day."

The house welcomed Dr. Munson and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 35).

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

HR 816 - ADOPTED (by Noriega)

Representative Noriega moved to suspend all necessary rules to take up and consider at this time **HR 816**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 816, Honoring the 49th Armored Division of the Texas National Guard for its impressive peacekeeping efforts in Bosnia.

HR 816 was read and was adopted without objection.

On motion of Representative Hunter, the names of all the members of the house were added to **HR 816** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative B. Turner, who introduced members of the 49th Armored Division of the Texas National Guard.

SCR 49 - ADOPTED (Naishtat - House Sponsor)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **SCR 49**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 49, Honoring Elissa Benford of Buda for her community service.

SCR 49 was adopted without objection.

HR 806 - ADOPTED (by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 806**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 806, Recognizing May 2001 as Community Action Month in the Lone Star State and commending all the members of Texas' Community Action Agencies for their hard work and dedication.

HR 806 was adopted without objection.

HR 781 - ADOPTED

(by Hunter, Counts, Keffer, Junell, and Goolsby)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 781**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 781, Honoring William P. Wright, Jr., of Abilene for his achievements as a businessman, civic leader, and photographer.

HR 781 was read and was adopted without objection.

On motion of Representative Counts, the names of all the members of the house were added to **HR 781** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Hunter, who introduced William P. Wright, Jr.

(Edwards in the chair)

HR 804 - ADOPTED

(by J. Davis, Gray, Talton, Eiland, and Edwards)

Representative J. Davis moved to suspend all necessary rules to take up and consider at this time **HR 804**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 804, Recognizing April 24, 2001, as Space Day 2001 and commending all those involved with America's exploration of space.

(Speaker in the chair)

HR 804 was read and was adopted without objection.

On motion of Representative Gray, the names of all the members of the house were added to **HR 804** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative J. Davis, who introduced Mike McCulley, Lorie Arnett, Mike Lounge, Jim Reinhartsen, and Walter Cunningham.

HR 803 - ADOPTED

(by J. Davis, Gray, Talton, Eiland, and Edwards)

Representative J. Davis moved to suspend all necessary rules to take up and consider at this time **HR 803**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 803, Honoring the 22 teachers who successfully completed the Aerospace Academy for Engineering and Teacher Education.

HR 803 was read and was adopted without objection.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 803** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative J. Davis, who introduced graduates and representatives of the Aerospace Academy for Engineering and Teacher Education.

HR 721 - ADOPTED (by Averitt)

Representative Averitt moved to suspend all necessary rules to take up and consider at this time **HR 721**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 721, Congratulating the 2001 Mexia High School boys basketball team on winning the UIL Class 3A state title.

HR 721 was read and was adopted without objection.

(Hardcastle in the chair)

On motion of Representative Hodge, the names of all the members of the house were added to **HR 721** as signers thereof.

(Speaker in the chair)

INTRODUCTION OF GUESTS

The speaker recognized Representative Averitt, who introduced members and coaches of the Mexia High School boys basketball team, winners of the UIL Class 3A state title.

HR 773 - ADOPTED (by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 773**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 773, Recognizing April 24, 2001, as Texas Retired Employees Association Day at the State Capitol.

HR 773 was read and was adopted without objection.

(Speaker pro tempore in the chair)

HR 811 - ADOPTED
(by Capelo)

Representative Capelo moved to suspend all necessary rules to take up and consider at this time **HR 811**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 811, Congratulating Vicente N. Carranza of Corpus Christi on being named the 2001 Small Business Journalist of the Year.

HR 811 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The chair recognized Representative Capelo, who introduced Vicente N. Carranza and his family.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 15).

(Speaker in the chair)

HR 821 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 821**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 821, In memory of Tom Landry.

HR 821 was read and was unanimously adopted by a rising vote.

On motion of Representative Flores, the names of all the members of the house were added to **HR 821** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Goolsby, who introduced the family of coach Tom Landry.

HR 822 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 822**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 822, In memory of the Honorable Wade F. Spilman of Austin.

HR 822 was read and was unanimously adopted by a rising vote.

On motion of Representative Flores, the names of all the members of the house were added to **HR 822** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Goolsby, who introduced the family of the Honorable Wade F. Spilman.

HR 451

HR 451, in memory of Nell Myers of Austin, having been previously adopted, was read.

HR 844 - ADOPTED (by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 844**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 844, In memory of the Honorable Renato Cuellar.

HR 844 was unanimously adopted by a rising vote.

On motion of Representative Uher, the names of all the members of the house were added to **HR 844** as signers thereof.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Edwards and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

PROVIDING FOR A CONGRATULATORY AND MEMORIAL CALENDAR

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Friday, April 27.

The motion prevailed without objection.

HB 3694 - PERMISSION TO INTRODUCE

Representative Solis requested permission to introduce and have placed on first reading **HB 3694**.

A record vote was requested.

Permission to introduce was granted by (Record 180): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores;

Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert.

Absent — Goolsby; King, P.

PROVIDING FOR A LOCAL, CONSENT, AND RESOLUTIONS CALENDAR

Representative Y. Davis moved to set a local, consent, and resolutions calendar for 10 a.m. Friday, April 27.

The motion prevailed without objection.

(Speaker pro tempore in the chair)

RULES SUSPENDED

Representative Ramsay moved to suspend the 5-day posting rule to allow the Committee on County Affairs to consider **HB 3683**.

The motion prevailed without objection.

HR 657 - ADOPTED (by Flores)

Representative Flores moved to suspend all necessary rules to take up and consider at this time **HR 657**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 657, Honoring Dr. Ramiro R. Casso of McAllen on his having the Nursing and Allied Health Center of South Texas Community College named after him.

HR 657 was adopted without objection.

POSTPONED BUSINESS

The following resolution was laid before the house as postponed business:

CSHJR 75 ON SECOND READING
(by Mowery and Driver)

CSHJR 75, A joint resolution proposing a constitutional amendment to eliminate obsolete, archaic, redundant, and unnecessary provisions and to clarify, update, and harmonize certain provisions of the Texas Constitution.

CSHJR 75 was read second time on April 23 and was postponed until this time.

Amendment No. 1

Representative Mowery offered the following amendment to **CSHJR 75**:

Amend **CSHJR 75** as follows:

- (1) On page 5, line 24, immediately after the semicolon, insert "and".
- (2) On page 5, at the end of line 26, strike ":" and substitute ".".
- (3) Strike the text on page 5, line 27, and page 6, lines 1-4.
- (4) On page 28, lines 22-25, strike "[~~may pass laws for the regulation of live stock and the protection of stock raisers in the stock raising portion of the State, and exempt from the operation of such laws other portions, sections, or counties; and~~]" and substitute "may pass laws for the regulation of live stock and the protection of stock raisers in the stock raising portion of the State, and exempt from the operation of such laws other portions, sections, or counties; and".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Mowery offered the following amendment to **CSHJR 75**:

Amend **CSHJR 75** as follows:

- (1) On page 21, line 11, strike "as provided by law.", and substitute "for the benefit of education."
- (2) On page 21, lines 14-15, strike "the general revenue fund to be appropriated as provided by law." and substitute "the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf, in equal shares."

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Mowery offered the following amendment to **CSHJR 75**:

Amend **CSHJR 75** on page 29, line 4, between "22," and "56", by inserting "43,".

Amendment No. 3 was adopted without objection.

A record vote was requested.

CSHJR 75, as amended, was adopted by (Record 181): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum;

Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Goolsby; Longoria.

MAJOR STATE CALENDAR HOUSE BILLS SECOND READING

The following bill was laid before the house and read second time:

CSHB 2600 ON SECOND READING (by Brimer, Junell, Janek, Eiland, and Dukes)

CSHB 2600, A bill to be entitled An Act relating to the provision of workers' compensation benefits and to the operation of the workers' compensation insurance system; providing penalties.

Amendment No. 1

Representative Brimer offered the following amendment to **CSHB 2600**:

Amend **CSHB 2600**, committee printing, as follows:

(1) On page 9, line 15, strike "408.0231(f)(6)" and substitute "408.0231(f)".

(2) On page 12, line 15, between "representatives" and the semicolon, insert "recommended by a recognized statewide labor federation".

(3) On page 13, line 18, between "networks" and the semicolon, insert "using a phased implementation and evaluation process".

(4) On page 19, line 24, between "benefits" and the semicolon, insert ", including a description of the enhanced income benefits that may be due".

(5) On page 23, line 22, between "maximum medical improvement" and the semicolon, insert ", in which case the commission shall appoint a designated doctor on the request of the employee as provided by Section 408.0041".

(6) On page 31, line 22, strike "413.0141" and substitute "413.014".

(7) On page 31, line 24, strike "413.014" and substitute "413.0141".

(8) On page 31, line 25, strike ", as amended by this article, not later than that date".

(9) On page 32, line 22, strike "compensability and".

(10) On page 32, line 27, after the period, insert the following:

The designated doctor doing the review must be knowledgeable and experienced with the treatment and procedures used by the doctor treating the patient's medical condition and the treatments and procedures performed must be within the scope of practice of the designated doctor.

(11) On page 34, line 21, strike "mileage".

(12) On page 37, line 3, between "necessary." and "A designated doctor's", insert "The designated doctor doing the review must be knowledgeable and experienced with the treatment and procedures used by the doctor treating the patient's medical condition and the treatments and procedures performed must be within the scope of practice of the designated doctor."

(13) On page 51, line 7, strike "third degree burns over 40 percent of the body" and substitute "burns that result in at least 40 percent of the body being subject to debriding or grafting, or third degree burns covering the majority of either both hands or one hand and the head".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Dunnam offered the following amendment to **CSHB 2600**:

Amend **CSHB 2600** by adding new ARTICLES to the bill, with the ARTICLES and the SECTIONS in the articles appropriately numbered, to read as follows, and renumbering the subsequent ARTICLES and SECTIONS of the bill appropriately:

ARTICLE __. INSURANCE CARRIER INFORMATION

SECTION __. Section 410.164, Labor Code, is amended by adding Subsection (c) to read as follows:

(c) At each contested case hearing, as applicable, the insurance carrier shall file with the hearing officer and shall deliver to the claimant a single document stating the true corporate name of the insurance carrier and the name and address of the insurance carrier's registered agent for service of process. The document is part of the record of the contested case hearing.

SECTION __. Section 410.204, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) Each final decision of the appeals panel shall conclude with a separate paragraph stating: "The true corporate name of the insurance carrier is (NAME IN BOLD PRINT) and the name and address of its registered agent for service of process is (NAME AND ADDRESS IN BOLD PRINT)."

SECTION __. This article applies only to a workers' compensation hearing that is conducted on or after the effective date of this Act. A hearing that is conducted before that date is governed by the law in effect on the date the hearing was conducted, and the former law is continued in effect for that purpose.

ARTICLE __. APPEAL REQUIREMENTS

SECTION __. Section 410.202, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) Saturdays and Sundays and holidays listed in Section 662.003, Government Code, are not included in the computation of the time in which a request for an appeal under Subsection (a) or a response under Subsection (b) must be filed.

SECTION _____. The change in law made by this article applies only to an appeal in a workers' compensation proceeding filed on or after the effective date of this Act. An appeal filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and the former law is continued in effect for that purpose.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Isett offered the following amendment to **CSHB 2600**:

Amend **CSHB 2600**, committee printing, by adding the following ARTICLE, appropriately numbered, and renumbering the subsequent ARTICLES of the bill appropriately:

ARTICLE _____. STUDY ON DRUG-FREE WORKPLACE REQUIREMENTS

SECTION _____.01. Subchapter G, Chapter 411, Labor Code, is amended by adding Section 411.093 to read as follows:

Sec. 411.093. STUDY ON DRUG-FREE WORKPLACE; REPORT. (a) The commission shall study:

(1) the implementation and development of drug-free workplace policies under this subchapter;

(2) the use of drug-free workplace requirements adopted by other jurisdictions to reduce the adverse impact on the operation of workers' compensation insurance systems of drug abuse and its effects in the workplace; and

(3) any other aspects of the effect of drug abuse on the operation of the workers' compensation insurance system in this state as considered appropriate by the commission or the Research and Oversight Council on Workers' Compensation.

(b) The commission shall report not later than February 1, 2003, to the legislature and the Research and Oversight Council on Workers' Compensation regarding the study conducted under this section. The report must include:

(1) any commission recommendations for legislative changes in the workers' compensation laws as regards the implementation of a drug-free workplace requirement; and

(2) an analysis of the possible effects of the adoption of a workers' compensation insurance premium discount program for employers who maintain a drug-free workplace on the operation of the workers' compensation insurance system in this state.

(c) On the request of the commission, the Texas Department of Insurance shall assist the commission in the performance of its duties under this section.

(d) This section expires September 1, 2003.

Amendment No. 3 was adopted without objection.

CSHB 2600, as amended, was passed to engrossment.

**GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

HB 587 ON THIRD READING

(by Thompson, Haggerty, Gallego, Sadler, Danburg, et al.)

HB 587, A bill to be entitled An Act relating to the investigation and prosecution of an offense motivated by bias or prejudice and to other civil and criminal remedies for and protections against certain hateful acts.

HB 587 was passed. (Craddick, Delisi, Hamric, Hill, Howard, Keel, and Woolley recorded voting no)

HB 587 - STATEMENT OF VOTE

This bill is not really about enhancing penalties under Texas law for crimes motivated by bias or prejudice. Current law already does this. Tex. Pen. Code sec. 12.47 prescribes a penalty of the next higher category if the offense was committed because of the defendant's bias or prejudice. The current statute, enacted in 1993 and amended in 1997, purposely does not include enumerated classes, because to do so necessarily diminishes the value of all non-included victims.

In fact, the purpose of **HB 587** is to use the criminal statutes to carve out special protection for certain specified groups. This excludes the victims of crimes whose attacker did not necessarily assault or kill them because of their specific race, gender or sexual preference, but who are, nevertheless, just as injured or dead.

When this bill was debated in the 76th Legislative Session, its proponents failed to answer the question of how the proposed creation of enumerated protected classes of victims was preferable over the current law, which focuses on the defendant's motivation and, by not enumerating protected classes, can be used to the benefit of any victim of crime who is attacked by an assailant motivated by bias or prejudice.

As the Presidential race unfolded in the year 2000, the refusal of the 76th Legislature to enact the enumerated classes-type of "hate crimes" bill was used as criticism of Governor Bush in his candidacy. Aside from the obvious (namely that the particular case for which the legislation was named would not have been affected by the proposed bill), when it was pointed out that Texas nevertheless already had a hate crimes statute, critics then shifted gears to suggest that, although a "hate crimes" statute was on the books in Texas, the statute's failure to delineate classes of victims leaves it subject to attack on grounds of "vagueness".

Contrary to the rhetoric about vagueness, Courts of Appeals in Texas have consistently upheld the validity of Tex. Pen. Code sec. 12.47 as it currently exists. See, e.g., *Martinez v. State*, 980 S.W. 2d 662 (Tex. App.—San Antonio 1998); *Roderick v. State*, No. 13-99-235-CR (Tex. App. Corpus Christi, April 5, 2001); *Boyd v. State*, No. 05-96-01516-CR (Tex. App. Dallas 5th [unpublished] March 25, 1999). Likewise it is non-sequitur to analogize the proposals of creating specially protected classes of victims with current statutes

protecting, for example, peace officers, since any person, regardless of race, gender or sexual preference, could be acting in the capacity of such a public servant.

All of the above being true, there are certain proponents of the specially protected classes-type of hate crimes measure who say this legislation is necessary as a matter of making a principled statement against "hate." I am just as firmly convinced that a "no" vote is necessitated on my part for the sake of intellectual honesty and, most importantly, to be true to the principle of upholding equal protection under the law for all victims of crime.

Keel

HB 323 ON THIRD READING (by Oliveira and Solis)

HB 323, A bill to be entitled An Act relating to establishing a center for border economic and enterprise development at The University of Texas at Brownsville.

A record vote was requested.

HB 323 was passed by (Record 182): 147 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

STATEMENT OF VOTE

I was shown voting yes on Record No. 182. I intended to vote no.

Howard

HB 1194 ON THIRD READING**(by Brimer)**

HB 1194, A bill to be entitled An Act relating to the eligibility of certain property owned or leased by a local official for ad valorem tax abatement or tax increment financing.

HB 1194 was passed.

HB 2537 ON THIRD READING**(by Eiland)**

HB 2537, A bill to be entitled An Act relating to the recovery of exemplary damages by the surviving spouse or heirs of the body of a deceased employee.

HB 2537 was passed. (Craddick recorded voting no)

HB 247 ON THIRD READING**(by B. Turner, Hupp, Miller, Hilderbran, et al.)**

HB 247, A bill to be entitled An Act relating to the use of stored water for wildlife management on a person's property.

A record vote was requested.

HB 247 was passed by (Record 183): 144 Yeas, 1 Nay, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nay — Danburg.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Maxey; McReynolds.

HB 1994 ON THIRD READING
(by Marchant)

HB 1994, A bill to be entitled An Act relating to certain charges included in a retail installment agreement.

HB 1994 was passed. (Burnam recorded voting no)

HB 1794 ON THIRD READING
(by Wise)

HB 1794, A bill to be entitled An Act relating to private club alcoholic beverage accounts.

HB 1794 was passed. (Howard recorded voting no)

HB 1420 ON THIRD READING
(by J. Jones)

HB 1420, A bill to be entitled An Act relating to the definition of the practice of law.

HB 1420 was passed.

HB 1113 ON THIRD READING
(by Goolsby)

HB 1113, A bill to be entitled An Act relating to legislative leave time accounts for police officers in certain municipalities.

A record vote was requested.

HB 1113 was passed by (Record 184): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Flores; Haggerty; Moreno, P.

HB 3483 ON THIRD READING**(by Ramsay)**

HB 3483, A bill to be entitled An Act relating to the creation, powers, and duties of the Clean Coal Technology Council.

Amendment No. 1

Representative Burnam offered the following amendment to **HB 3483**:

Amend **HB 3483** on third reading as follows:

1. On page 2, line 21, add the word "existing" between the words "more" and "facilities".

2. On page 4, line 6, add the words "environmental costs such as particulates, mercury contamination, coal combustion waste disposal, and global warming," between the comma and the word "seeking".

3. On page 4, between lines 15 and 16, add the following:

(6) assess the potential revenues that could be derived from a coal use tax;

4. On page 4, line 16, strike "(6)" and substitute "(7)".

5. On page 4, line 21, strike "(7)" and substitute "(8)".

Representative Ramsay moved to table Amendment No. 1.

The motion to table prevailed.

HB 3483 was passed.

HB 468 ON THIRD READING**(by Solomons and Heflin)**

HB 468, A bill to be entitled An Act relating to the transportation of and certain ad valorem tax liens on manufactured homes; providing a penalty.

HB 468 was passed.

HB 1075 ON THIRD READING**(by Haggerty)**

HB 1075, A bill to be entitled An Act relating to certain reports submitted to the community justice assistance division of the Texas Department of Criminal Justice on the use of ignition interlock devices.

A record vote was requested.

HB 1075 was passed by (Record 185): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp;

Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Capelo; Chavez; Grusendorf; Hawley; Mowery.

STATEMENT OF VOTE

When Record No. 185 was taken, I was in the house but away from my desk. I would have voted yes.

Hawley

HB 1243 ON THIRD READING

(by Villarreal and Naishtat)

HB 1243, A bill to be entitled An Act relating to monitoring by the Texas Workforce Commission of the long-term employment history of certain former recipients of public assistance.

Amendment No. 1

Representative Madden offered the following amendment to **HB 1243**:

Amend **HB 1243** on third reading by striking line 23 on page 1 and substituting in its place the following:

"recipient for a period of up to but not more than three years;"

Amendment No. 1 was adopted without objection.

HB 1243, as amended, was passed. (Howard recorded voting no)

HB 1684 ON THIRD READING

(by Solomons)

HB 1684, A bill to be entitled An Act relating to certain charges that may be included in a retail installment agreement.

HB 1684 was passed. (Burnam recorded voting no)

HB 430 ON THIRD READING

(by Pitts)

HB 430, A bill to be entitled An Act relating to the examination required to become a certified public accountant.

HB 430 was passed.

HB 362 ON THIRD READING**(by Averitt)**

HB 362, A bill to be entitled An Act relating to the definition of unfair competition and unfair and deceptive acts or practices in the business of insurance.

HB 362 was passed.

HB 106 ON THIRD READING**(by Gutierrez)**

HB 106, A bill to be entitled An Act relating to restricting written reports required of public school classroom teachers.

HB 106 was passed.

HB 236 ON THIRD READING**(by Hinojosa, Gallego, Keel, and Chavez)**

HB 236, A bill to be entitled An Act relating to the applicability of the death penalty to a capital offense committed by a person with mental retardation.

HB 236 was passed. (B. Brown, F. Brown, Craddick, Delisi, Hamric, Howard, Hupp, Marchant, and Woolley recorded voting no)

HB 328 ON THIRD READING**(by Gallego, B. Turner, and Hawley)**

HB 328, A bill to be entitled An Act relating to single-member trustee districts for certain school districts.

A record vote was requested.

HB 328 was passed by (Record 186): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Coleman; Deshotel; Flores; Grusendorf; Marchant; Talton.

HB 457 ON THIRD READING
(by Clark, Naishtat, and Chavez)

HB 457, A bill to be entitled An Act relating to the computation of dropout rates for purposes of public school accountability.

HB 457 was passed.

HB 965 ON THIRD READING
(by Dunnam)

HB 965, A bill to be entitled An Act relating to the eligibility requirements for an applicant or a holder of a lottery sales agent license.

HB 965 was passed.

HB 2337 ON THIRD READING
(by Goolsby)

HB 2337, A bill to be entitled An Act relating to the practice of landscape architecture.

Amendment No. 1

Representative Goolsby offered the following amendment to **HB 2337**:

Amend **HB 2337** on third reading by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1(b), Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) "Landscape architecture":

(1) means the art and science of landscape analysis, landscape planning and landscape design;

(2) includes the performance of professional services such as consultation, investigation, research, the preparation of general development and detailed site design plans, the preparation of studies, the preparation of specifications, and responsible supervision related to the development of landscape areas for:

(A) the planning, preservation, enhancement, and arrangement of land forms, natural systems, features, and plantings, including ground and water forms;

(B) the planning and design of vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements;

(C) the formulation of graphic and written criteria to govern the planning and design of landscape construction development programs, including:

(i) the preparation, review, and analysis of master and site plans for landscape use and development;

(ii) the analysis of environmental, physical, and social considerations related to land use;

(iii) the preparation of drawings, construction documents, and specifications; and

(iv) construction observation;

(D) design coordination and review of technical submissions, plans, and construction documents prepared by persons working under the direction of the landscape architect;

(E) the preparation of feasibility studies, statements of probable construction costs, and reports and site selection for landscape development and preservation;

(F) the integration, site analysis, and determination of the location of buildings, structures, and circulation and environmental systems;

(G) the analysis and design of:

(i) site landscape grading and drainage;

(ii) systems for landscape erosion and sediment control; and

(iii) trails and pedestrian walkway systems;

(H) the planning and placement of uninhabitable landscape structures, plants, landscape lighting, and hard surface areas;

(I) the collaboration of landscape architects with other professionals in the design of roads, bridges, and structures regarding the functional, environmental, and aesthetic requirements of the areas in which they are to be placed; and

(J) field observation of landscape site construction, revegetation, and maintenance; and [performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall]

(3) does not include:

(A) traffic, roadway, or pavement engineering;

(B) the design of utilities;

(C) the engineering or study of hydrologic management of stormwater systems or floodplains;

(D) the making of final plats; or

(E) any services or functions within the definition of the practice of engineering, public surveying, or architecture as defined by the laws of this state.

SECTION 2. Section 2, Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. PRACTICE OF LANDSCAPE ARCHITECTURE; ACCEPTANCE OF ASSIGNMENTS [EXEMPTIONS]. (a) A person may not engage in the

practice of landscape architecture unless the person holds a certificate of registration under this article or the person:

(1) holds a license or permit issued by the Department of Agriculture, if that license or permit authorizes the person to engage in the business of selling nursery stock in this state, except as provided by Section 2A of this Act;

(2) is a building designer, except as provided by Section 2A of this Act;

(3) is a landscape contractor, except as provided by Section 2A of this Act;

(4) is a landscape designer, except as provided by Section 2A of this Act;

(5) is a golf course designer or planner involved in services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications, and supervision, if the dominant purpose of the service is golf course design or planning;

(6) makes a plan, drawing, or specification for personal use, if the plan, drawing, or specification is for property that is owned by that person;

(7) makes a plan, drawing, or specification for a single family residence;

(8) is engaged in the location, arrangement, and design of any tangible objects and features that are incidental and necessary to landscape development, preservation, and aesthetic and functional enhancement, if that engagement is for:

(A) the design of structures or facilities with separate and self-contained purposes that are ordinarily included in the practice of engineering or architecture; or

(B) the making of land surveys for official approval or recording; or

(9) is licensed in this state to practice:

(A) architecture;

(B) engineering; or

(C) land surveying [The provisions of this Act do not apply to nor affect laws relating to a professional engineer, building designer, land surveyor, nurseryman, or an architect (except landscape architect), respectively].

(b) A person described by Subsection (a) may not use the term "landscape architect," "landscape architectural," "landscape architecture," or any similar term, to describe the person or the services the person provides unless the person holds a certificate of registration under this article [Every agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, grader or cultivator of land and any person making plans for property owned by himself is exempt from registration under the provisions of this Act, provided however, none of the foregoing shall use the title or term "landscape architect" in any sign, card, listing, or advertisement or represent himself to be a "landscape architect" without complying with the provisions of this Act].

(c) A landscape architect may not accept an assignment to engage in the practice of landscape architecture unless:

(1) the landscape architect is qualified by education, examination, or experience to adequately and competently perform the assignment; or

(2) the part of the assignment for which the landscape architect is not qualified is to be performed by persons who are qualified, if the landscape architect is not qualified to perform that part of the assignment.

SECTION 3. Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended by adding Section 2A to read as follows:

Sec. 2A. BUILDING DESIGNERS, LANDSCAPE CONTRACTORS, LANDSCAPE DESIGNERS, AND NURSERYMEN. A building designer, landscape contractor, landscape designer, or nurseryman may prepare a landscape plan or drawing, but may not make a plant or revegetation plan, drawing, or specification that:

(1) is for property that is larger than one acre;

(2) includes a pathway or vehicular circulation system accessible by the public; or

(3) adversely affects the public's health, safety, and welfare.

SECTION 4. Section 5(a), Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended to read as follows:

~~(a) [No person shall represent himself as a landscape architect, as defined herein, unless such person holds a certificate of registration as a landscape architect issued by the board.]~~ A person must satisfactorily pass the examination as may be prescribed by the board to be registered as provided herein. Any person who has graduated from a landscape architectural educational program recognized and approved by the board and has had satisfactory experience in landscape architecture as required by rules adopted by the board may apply for examination. The application must be accompanied by a registration fee, set by the board in an amount that is reasonable and necessary to defray administrative costs. The examination shall be approved by the members of the board and shall be given by the board at its office in Austin, Travis County, Texas, or such other place as the board may determine or designate. The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability which will insure safety to the public welfare and property rights.

SECTION 5. This Act takes effect September 1, 2001.

Amendment No. 1 was adopted without objection.

HB 2337, as amended, was passed.

HB 1733 ON THIRD READING **(by J. Moreno)**

HB 1733, A bill to be entitled An Act relating to the licensing requirements for labor halls in certain municipalities.

HB 1733 was passed.

HB 3329 ON THIRD READING **(by Averitt)**

HB 3329, A bill to be entitled An Act relating to tax-exempt private activity bonds.

HB 3329 was passed.

HB 2746 ON THIRD READING
(by Carter, Hawley, Clark, and Chisum)

HB 2746, A bill to be entitled An Act relating to emergency services and rural fire prevention districts; providing for a tax.

A record vote was requested.

HB 2746 was passed by (Record 187): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Sadler.

HB 2384 ON THIRD READING
(by Carter)

HB 2384, A bill to be entitled An Act relating to certain fire fighter and police officer employment matters in certain municipalities.

A record vote was requested.

HB 2384 was passed by (Record 188): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge;

Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Yarbrough.

HB 1188 ON THIRD READING

(by Telford)

HB 1188, A bill to be entitled An Act relating to the rights of a public school teacher who is assaulted during the performance of the teacher's regular duties.

A record vote was requested.

HB 1188 was passed by (Record 189): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Shields; Wohlgemuth.

STATEMENT OF VOTE

When Record No. 189 was taken, I was in the house but away from my desk. I would have voted yes.

Shields

**HB 2139 ON THIRD READING
(by Marchant)**

HB 2139, A bill to be entitled An Act relating to certain agreements under a retail installment contract for the purchase of a motor vehicle.

HB 2139 was passed.

**HB 2300 ON THIRD READING
(by Thompson, Farabee, et al.)**

HB 2300, A bill to be entitled An Act relating to the salaries of certain judges and to the collection of certain court costs.

Amendment No. 1

Representative Chisum offered the following amendment to **HB 2300**:

Amend **HB 2300** on third reading on page 3, line 15, between "court" and "in", by striking "judge" and substituting "[judge]".

Amendment No. 1 was adopted without objection.

HB 2300, as amended, was passed.

**HB 400 ON THIRD READING
(by Giddings)**

HB 400, A bill to be entitled An Act relating to establishing a pilot program to assist prospective students in enrolling in institutions of higher education.

HB 400 was passed.

**HB 1066 ON THIRD READING
(by Uher)**

HB 1066, A bill to be entitled An Act relating to health benefits coverage of grandchildren.

HB 1066 was passed.

**HB 1126 ON THIRD READING
(by Rangel)**

HB 1126, A bill to be entitled An Act relating to the discarding of burning materials; providing a criminal penalty.

HB 1126 was passed.

**HB 623 ON THIRD READING
(by Hochberg and Delisi)**

HB 623, A bill to be entitled An Act relating to the selection, distribution, and use of public school textbooks; providing a criminal penalty.

HB 623 was passed. (The vote was reconsidered later today, and **HB 623** was passed by Record 191.)

HB 131 ON THIRD READING
(by Deshotel)

HB 131, A bill to be entitled An Act relating to the use of the compensation to victims of crime fund to reimburse the reasonable costs of certain victims' medical examinations.

A record vote was requested.

HB 131 was passed by (Record 190): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Turner, S.; Wohlgemuth.

HB 623 - VOTE RECONSIDERED

Representative Hochberg moved to reconsider the vote by which **HB 623** was passed earlier today.

The motion to reconsider prevailed.

A record vote was requested.

HB 623 was passed by (Record 191): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brown, B.; Brown, F.; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton;

Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Brimer; Burnam; Flores; Grusendorf; Marchant; Solomons.

HB 2311 ON THIRD READING

(by Bosse, Solis, et al.)

HB 2311, A bill to be entitled An Act relating to certain agreements for the payment of subcontractors.

HB 2311 was passed.

HB 2344 ON THIRD READING

(by Oliveira)

HB 2344, A bill to be entitled An Act relating to the number of entering freshmen that may enroll at The University of Texas at Brownsville.

A record vote was requested.

HB 2344 was passed by (Record 192): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker;

West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Hamric; Martinez Fischer.

STATEMENT OF VOTE

When Record No. 192 was taken, my vote failed to register. I would have voted yes.

Hamric

HB 3673 ON THIRD READING (by Swinford and Miller)

HB 3673, A bill to be entitled An Act relating to feeding certain garbage to swine; providing a criminal penalty.

HB 3673 was passed.

HB 2828 ON THIRD READING (by Smithee)

HB 2828, A bill to be entitled An Act relating to the delegation of certain functions by a health maintenance organization; providing penalties.

HB 2828 was passed.

HB 3016 ON THIRD READING (by Haggerty)

HB 3016, A bill to be entitled An Act relating to the use of electronically readable information to comply with provisions of the Alcoholic Beverage Code.

HB 3016 was passed.

HB 2787 ON THIRD READING (by Geren)

HB 2787, A bill to be entitled An Act relating to requiring students of institutions of higher education to obtain a vehicle emissions inspection for certain vehicles and to notifying certain students of state vehicle registration and inspection requirements.

HB 2787 was passed.

GENERAL STATE CALENDAR SENATE BILLS THIRD READING

The following bills were laid before the house and read third time:

SB 277 ON THIRD READING (Counts - House Sponsor)

SB 277, A bill to be entitled An Act relating to the transfer, sale, or assignment of structured settlements.

Amendment No. 1

Representative Dutton offered the following amendment to **SB 277**:

Amend **SB 277** on third reading as follows:

Add a new SECTION 2 to read as follows and renumber the subsequent sections appropriately.

SECTION 2. Section 142.009, Property Code, is amended to read as follows:

Sec. 142.009. Annuity Contract Requirements for Structured Settlement

(a) ~~An annuity contract that funds a structured settlement as provided by Section 142.008 must be provided by an insurance company that is not:~~

~~(1) an affiliate, as that term is defined by Article 21.49-1, Insurance Code, of a liability insurance carrier involved in the suit for which the structured settlement is created; or~~

~~(2) connected in any way to a person obligated to fund the structured settlement.~~

~~(b)~~ An insurance company providing an annuity contract for a structured settlement as provided by Section 142.008 must:

(1) be licensed to write annuity contracts in this state;

(2) have a minimum of \$1 million of capital and surplus; and

(3) be approved by the court and comply with any requirements imposed by the court to ensure funding to satisfy periodic settlement payments.

(b) In approving an insurance company under Sub-section ~~(b)~~(a)(3), the court may consider whether the company:

(1) holds an industry rating equivalent to at least two of the following rating organizations:

(A) A.M. Best Company: A++ or A+ ;

(B) Duff & Phelps Credit Rating Company Insurance Company Claims Paying Ability Rating; AA-, AA, AA+, or AAA;

(C) Moody's Investors Service Claims Paying Ability Rating; Aa3, Aa2, Aa1, or aaa; or

(D) Standard & Poor's Corporation Insurer Claims-Paying Ability Rating; AA-, AA, AA+, or AAA;

(2) is an affiliate, as that term is defined by Article 21.49-1, Insurance Code, of a liability insurance carrier involved in the suit for which the structured settlement is created; or

(3) is connected in any way to a person obligated to fund the structured settlement.

Amendment No. 1 was adopted without objection.

SB 277, as amended, was passed.

SB 695 ON THIRD READING
(Clark - House Sponsor)

SB 695, A bill to be entitled An Act relating to consultations between a governmental body and its attorney.

A record vote was requested.

SB 695 was passed by (Record 193): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Capelo; Reyna, A.

STATEMENT OF VOTE

When Record No. 193 was taken, I was in the house but away from my desk. I would have voted yes.

A. Reyna

SB 365 ON THIRD READING (Ritter - House Sponsor)

SB 365, A bill to be entitled An Act relating to the adoption of a uniform residential building code for use in the state.

Representative Ritter moved to postpone consideration of **SB 365** until 2 p.m. today.

The motion prevailed.

SB 361 ON THIRD READING (Hardcastle - House Sponsor)

SB 361, A bill to be entitled An Act relating to the membership and activities of the Interagency Council on Autism and Pervasive Developmental Disorders.

SB 361 was passed.

SB 184 ON THIRD READING
(Naishtat - House Sponsor)

SB 184, A bill to be entitled An Act relating to eligibility requirements for certain persons under the food stamp program.

SB 184 was passed. (Delisi, Howard, and Woolley recorded voting no)

SB 802 ON THIRD READING
(Bailey - House Sponsor)

SB 802, A bill to be entitled An Act relating to tax-exempt benefits for county employees.

A record vote was requested.

SB 802 was passed by (Record 194): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Callegari; Christian; Hope; Miller; Sadler; Williams.

STATEMENTS OF VOTE

When Record No. 194 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 194 was taken, I was in the house but away from my desk. I would have voted yes.

Christian

When Record No. 194 was taken, my vote failed to register. I would have voted yes.

Williams

SB 1589 ON THIRD READING
(Goodman and Naishtat - House Sponsors)

SB 1589, A bill to be entitled An Act relating to removing the Texas Juvenile Probation Commission from the list of agencies considered to be health and human services agencies generally subject to the authority of the Health and Human Services Commission.

SB 1589 was passed.

SB 938 ON THIRD READING
(Cook - House Sponsor)

SB 938, A bill to be entitled An Act relating to the duties of the Department of Agriculture and certain agricultural boards.

A record vote was requested.

SB 938 was passed by (Record 195): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Christian.

STATEMENT OF VOTE

When Record No. 195 was taken, I was in the house but away from my desk. I would have voted yes.

Christian

(Speaker in the chair)

**GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**SB 232 ON SECOND READING
(Goolsby - House Sponsor)**

SB 232, A bill to be entitled An Act relating to the designation of a portion of Interstate Highway 30 between Dallas and Fort Worth as the Tom Landry Highway.

SB 232 was considered in lieu of **HB 384**.

Amendment No. 1

Representative Goolsby offered the following amendment to **SB 232**:

Amend **SB 232**, on page 1, at the end of line 12, by adding the following:

The department shall include a depiction of a fedora on each marker designed and constructed under this section.

Amendment No. 1 was adopted without objection.

SB 232, as amended, was passed to third reading.

HB 384 - LAID ON THE TABLE SUBJECT TO CALL

Representative Goolsby moved to lay **HB 384** on the table subject to call.

The motion prevailed without objection.

**CSHB 1862 ON SECOND READING
(by Eiland, Janek, G. Lewis, E. Jones, Smithee, et al.)**

CSHB 1862, A bill to be entitled An Act relating to the regulation and prompt payment of health care providers under certain health benefit plans.

Representative Eiland moved to postpone consideration of **CSHB 1862** until 1:59 p.m. today.

The motion prevailed without objection.

**CSHB 196 ON SECOND READING
(by A. Reyna)**

CSHB 196, A bill to be entitled An Act relating to the adoption of standards for the practice of air conditioning and refrigeration contracting.

Amendment No. 1

Representative A. Reyna offered the following amendment to **CSHB 196**:

Amend **CSHB 196**, committee printing, as follows:

(1) On page 2, between lines 11 and 12, insert the following:

SECTION 3. The changes made by this Act control over any other Act of the 77th Legislature, Regular Session, 2001, relating to the adoption or implementation of uniform residential building codes. To the extent of any

conflict between this Act and another Act of the 77th Legislature, Regular Session, 2001, this Act prevails.

(2) On page 2, line 12, strike "SECTION 3". and substitute "SECTION 4".

Amendment No. 1 was adopted without objection.

CSHB 196, as amended, was passed to engrossment. (Berman, B. Brown, F. Brown, Delisi, and Hupp recorded voting no)

CSHB 217 ON SECOND READING
(by A. Reyna)

CSHB 217, A bill to be entitled An Act relating to the regulation of plumbing.

Amendment No. 1

Representative A. Reyna offered the following amendment to **CSHB 217**:

Amend **CSHB 217**, committee printing, as follows:

(1) On page 4, between lines 20 and 21, insert the following:

SECTION 4. The changes made by this Act control over any other Act of the 77th Legislature, Regular Session, 2001, relating to the adoption or implementation of uniform residential building codes. To the extent of any conflict between this Act and another Act of the 77th Legislature, Regular Session, 2001, this Act prevails.

(2) On page 4, line 21, strike "SECTION 4". and substitute "SECTION 5".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative B. Turner offered the following amendment to **CSHB 217**:

Amend **CSHB 217**, House Committee Report, as follows:

1) On page 1, lines 11-17, strike Subsection (2) and insert a new subsection (2) to read as follows:

"(2) Plumbing work done on a property that is:

(A) located in a subdivision or on a tract of land which is not required to be platted under Section 232.0015, Local Government Code; or

(B) not connected to a public water system; and

(C) located outside the municipal limits of any organized city, town or village in this state[, or within any such city, town or village of less than five thousand (5,000) inhabitants, unless required by ordinance in such city, town or village of less than five thousand (5,000) inhabitants];"; and

2) On page 4, line 2 insert "by a person licensed under this Act" between "Act" and "must".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Yarbrough offered the following amendment to **CSHB 217**:

Amend **CSHB 217** as follows:

(1) Insert a new SECTION of the bill appropriately numbered to read as follows:

SECTION ____ Section 2(5), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) "Plumbing Inspector" means any person employed by a political subdivision, or who contracts as an independent contractor with a political subdivision, for the purpose of inspecting plumbing work and installations in connection with health and safety laws and ordinances, who has no financial or advisory interests in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Board.

(2) Strike added Section 5B(e), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), and substitute the following:

(e) Plumbing installed in compliance with a code adopted under Subsection (a), (b), or (d) of this section must be inspected by a plumbing inspector. To perform this inspection, the political subdivision may contract with any plumbing inspector paid directly by the political subdivision. The plumbing inspector must be licensed as required by Section 14(a) of this Act.

(3) Renumber the SECTIONS of the bill appropriately.

Amendment No. 3 was adopted without objection.

CSHB 217, as amended, was passed to engrossment. (Berman, B. Brown, F. Brown, Delisi, and Hupp recorded voting no)

CSHB 2159 ON SECOND READING **(by Thompson and J. Moreno)**

CSHB 2159, A bill to be entitled An Act relating to premium rates and minimum reserves for credit life and accident and health insurance.

Amendment No. 1

Representative Thompson offered the following amendment to **CSHB 2159**:

CSHB 2159 is amended as follows:

(1) Delete all language beginning with the word "Not" on page 3, line 16, and ending with and including the word "insurer" immediately before the word "shall" on page 3, line 18.

(2) On page 3, line 16, insert the following after the figure "(5)": "An insurer electing to deviate from the benchmark rate".

(3) Delete all language beginning with the word "The" on page 3, line 26, and ending with and including the figure "(7)" on page 4, line 11.

(4) On page 4, line 21, delete the figure "(8)" and insert the figure "(7)" at the beginning of the line.

(5) On page 5, line 2, delete the figure "(9)" and insert the figure "(8)".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Smithee offered the following amendment to **CSHB 2159**:

Amend **CSHB 2159** as follows:

(1) On page 1, line 16, insert the following after the period: "This subsection expires September 1, 2013."

(2) On page 1, line 17, between "SECTION 2." and "Subsection A", insert "(a)".

(3) On page 3, line 19, between "credit health and accident insurance" and the period, insert ", including commission rates and how those rates are paid or charged. If the proposed rate represents a rate increase, the insurer shall specify the amount of and the reason for the increase. The commissioner may reject any rate increase if the commissioner finds that the increase is not actuarially justified."

(4) On page 5, between lines 6 and 7, insert the following:

(b) The changes made by this Act to Subsection A, Section 8, Article 3.53, Insurance Code, expire September 1, 2005.

(5) On page 5, line 7, between "SECTION 3." and "Section 40.003(c)", insert "(a)".

(6) On page 5, between lines 19 and 20, insert the following:

(b) The changes made by this Act to Section 40.003(c), Insurance Code, expire September 1, 2005.

(7) On page 5, between lines 19 and 20, insert the following:

SECTION 4. Before January 31, 2005, the commissioner of insurance, in consultation with the office of public insurance counsel, shall submit a report to the 79th Legislature regarding the effect of the changes made to Article 3.53, Insurance Code, by **HB 2159**, Acts of the 77th Legislature, Regular Session, 2001, on rates for credit life and accident and health insurance in this state.

(8) On page 5, line 20, strike "SECTION 4" and substitute "SECTION 5".

Representative Thompson moved to table Amendment No. 2.

A record vote was requested.

The motion to table was lost by (Record 196): 43 Yeas, 92 Nays, 2 Present, not voting.

Yeas — Bailey; Christian; Coleman; Davis, Y.; Denny; Deshotel; Dukes; Dutton; Edwards; Elkins; George; Grusendorf; Gutierrez; Hamric; Hardcastle; Hawley; Hochberg; Hodge; Hope; Hopson; Keel; Keffer; Kuempel; Luna; Marchant; Martinez Fischer; Moreno, J.; Nixon; Noriega; Oliveira; Puente; Raymond; Reyna, A.; Reyna, E.; Salinas; Seaman; Shields; Thompson; Tillery; Villarreal; Williams; Wilson; Yarbrough.

Nays — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Clark; Cook; Corte; Counts; Crabb; Craddick; Danburg; Davis, J.; Delisi; Driver; Eiland; Ellis; Farabee; Flores; Gallego; Garcia; Geren; Goodman; Goolsby; Gray; Green; Haggerty; Hartnett; Heflin; Hilderbran; Hill; Homer; Howard; Hunter; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; King, P.; King, T.; Kitchen; Kolkhorst; Lewis, G.; Lewis, R.; Longoria; Madden; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Najera; Olivo; Pickett; Pitts; Ramsay; Ritter; Sadler; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Truitt; Turner, B.; Turner, S.; Uher; Walker; West; Wise; Wohlgemuth; Wolens; Woolley; Zbranek.

Present, not voting — Mr. Speaker(C); Brown, F.

Absent, Excused — Hilbert.

Absent — Crossover; Dunnam; Ehrhardt; Farrar; Giddings; Glaze; Hinojosa; Hupp; Krusee; Moreno, P.; Rangel; Uresti.

STATEMENTS OF VOTE

When Record No. 196 was taken, I was in the house but away from my desk. I would have voted no.

Crossover

When Record No. 196 was taken, I was in the house but away from my desk. I would have voted no.

Dunnam

I was shown voting yes on Record No. 196. I intended to vote no.

Hawley

When Record No. 196 was taken, I was in the house but away from my desk. I would have voted no.

Hupp

Amendment No. 2 was adopted without objection.

CSHB 2159, as amended, was passed to engrossment.

CSHB 3587 ON SECOND READING (by Walker)

CSHB 3587, A bill to be entitled An Act relating to the exemption from permitting requirements for certain wells in a groundwater conservation district.

CSHB 3587 was passed to engrossment.

CSHB 363 ON SECOND READING (by Gallego, Capelo, B. Turner, Keel, and P. King)

CSHB 363, A bill to be entitled An Act relating to the issuance of a written notice to appear for certain misdemeanor offenses punishable by fine only.

CSHB 363 was passed to engrossment.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 1862 ON SECOND READING (by Eiland, Janek, G. Lewis, E. Jones, Smithee, et al.)

CSHB 1862, A bill to be entitled An Act relating to the regulation and prompt payment of health care providers under certain health benefit plans.

CSHB 1862 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative Eiland offered the following amendment to **CSHB 1862**:

Amend **CSHB 1862** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 1, Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Subdivision (14) to read as follows:

(14) "Preauthorization" means a reliable representation by an insurer to a physician or health care provider that the insurer will pay the physician or health care provider for proposed medical care or health care services if the physician or health care provider renders those services to the patient for whom the services are proposed. The term includes precertification, certification, re-certification, or any other term that would be a reliable representation by an insurer to a physician or health care provider.

SECTION 2. Section 3A, Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 3A. PROMPT PAYMENT OF PREFERRED PROVIDERS. (a) In this section, "clean claim" means a ~~[completed]~~ claim that complies with Section 3B of this article~~[- as determined under department rules, submitted by a preferred provider for medical care or health care services under a health insurance policy].~~

(b) A physician or provider must submit a claim to an insurer not later than the 95th day after the date the physician or provider provides the medical care or health care services for which the claim is made. An insurer shall accept as proof of timely filing a claim filed in compliance with Subsection (c) of this section or information from another insurer showing that the physician or provider submitted the claim to the insurer in compliance with Subsection (c) of this section. If a physician or provider fails to submit a claim in compliance with this subsection, the physician or provider forfeits the right to payment. The period for submitting a claim under this subsection may be extended by contract. A physician or provider may not submit a duplicate claim for payment before the 46th day after the date the original claim was submitted. The commissioner shall adopt rules under which an insurer may determine whether a claim is a duplicate claim ~~[A preferred provider for medical care or health care services under a health insurance policy may obtain acknowledgment of receipt of a claim for medical care or health care services under a health care plan by submitting the claim by United States mail, return receipt requested. An insurer or the contracted clearinghouse of an insurer that receives a claim electronically shall acknowledge receipt of the claim by an electronic transmission to the preferred provider and is not required to acknowledge receipt of the claim by the insurer in writing].~~

(c) A physician or provider shall, as appropriate:

(1) mail a claim by United States mail, first class, or by overnight delivery service, and maintain a log of mailed claims and include a copy of the log with the relevant mailed claim;

(2) submit the claim electronically and maintain a log of electronically submitted claims;

(3) fax the claim and maintain a log of all faxed claims; or

(4) hand deliver the claim and maintain a log of all hand-delivered claims.

(d) If a claim for medical care or health care services under a health care plan is mailed, the claim is presumed to have been received by the insurer on the third day after the date the claim is mailed or, if the claim is mailed using overnight service or return receipt requested, on the date the delivery receipt is signed. If the claim is submitted electronically, the claim is presumed to have been received on the date of the electronic verification of receipt by the insurer or the insurer's clearinghouse. If the insurer or the insurer's clearinghouse does not provide a confirmation within 24 hours of submission by the physician or provider, the physician's or provider's clearinghouse shall provide the confirmation. If the claim is faxed, the claim is presumed to have been received on the date of the transmission acknowledgment. If the claim is hand delivered, the claim is presumed to have been received on the date the delivery receipt is signed.

(e) Not later than the 45th day after the date that the insurer receives a clean claim from a preferred provider, the insurer shall make a determination of whether the claim is eligible for payment and:

(1) if the insurer determines the entire claim is eligible for payment, pay the total amount of the claim in accordance with the contract between the preferred provider and the insurer;

(2) if the insurer disputes a portion of the claim, pay the portion of the claim that is not in dispute and notify the preferred provider in writing why the remaining portion of the claim will not be paid; or

(3) if the insurer determines that the claim is not eligible for payment, notify the preferred provider in writing why the claim will not be paid.

(f) Not later than the 21st day after the date an insurer affirmatively adjudicates a pharmacy benefit claim that is electronically submitted, the insurer shall:

(1) pay the total amount of the claim; or

(2) notify the benefit provider of the reasons for denying payment of the claim.

(g) An insurer that determines under Subsection (e) of this section that a claim is eligible for payment and does not pay the claim on or before the 45th day after the date the insurer receives a clean claim commits an unfair claim settlement practice in violation of Article 21.21-2 of this code and is subject to an administrative penalty under Chapter 84 of this code. The insurer shall pay the physician or provider making the claim the full amount of billed charges submitted on the claim and interest on the billed charges at a rate of 15 percent annually, except that the insurer is not required to pay a preferred provider an amount of billed charges that exceeds the amount billable under a fee schedule provided by the preferred provider to the insurer on or before the 30th day after the date the physician or provider enters into a preferred provider contract with the insurer. The preferred provider may modify the fee schedule if the provider notifies the insurer of the modification on or before the 90th day before the date the modification takes effect.

(h) The investigation and determination of eligibility for payment, including any coordination of other payments does not extend the period for determining whether a claim is eligible for payment under Subsection (e) of this section ~~[(d) If a prescription benefit claim is electronically adjudicated and electronically paid, and the preferred provider or its designated agent authorizes treatment, the claim must be paid not later than the 21st day after the treatment is authorized].~~

(i) Except as provided by Subsection (j) of this section, if ~~[(e) If]~~ the insurer acknowledges coverage of an insured under the health insurance policy but intends to audit the preferred provider claim, the insurer shall pay the charges submitted at 85 percent of the contracted rate on the claim not later than the 45th day after the date that the insurer receives the claim from the preferred provider. The insurer must complete ~~[Following completion of]~~ the audit, and any additional payment due a preferred provider or any refund due the insurer shall be made not later than the 90th ~~[30th]~~ day after the ~~[later of the]~~ date the claim is received by the insurer ~~[that:~~

~~[(1) the preferred provider receives notice of the audit results; or~~

~~[(2) any appeal rights of the insured are exhausted].~~

(j) If an insurer needs additional information from a treating preferred provider to determine eligibility for payment, the insurer, not later than the 30th calendar day after the date the insurer receives a clean claim, shall request in writing that the preferred provider provide any attachment to the claim the insurer desires in good faith for clarification of the claim. The request must describe with specificity the clinical information requested and relate only to information the insurer can demonstrate is specific to the claim or the claim's related episode of care. An insurer that requests an attachment under this subsection shall determine whether the claim is eligible for payment on or before the later of the 15th day after the date the insurer receives the attachment or the latest date for determining whether the claim is eligible for payment under Subsection (e) of this section. An insurer may not make more than one request under this subsection in connection with a claim. Subsections (c) and (d) of this section apply to a request for and submission of an attachment under this subsection.

(k) If an insurer requests an attachment or other information from a person other than the physician or provider who submitted the claim, the insurer shall provide a copy of the request to the physician or provider who submitted the claim. The insurer may not withhold payment pending receipt of an attachment or information requested under this subsection. If on receiving an attachment or information requested under this subsection the insurer determines an error in payment of the claim, the insurer may recover under Section 3C of this article.

(l) The commissioner shall adopt rules under which an insurer can easily identify attachments or information submitted by a physician or provider under Subsection (j) or (k) of this section ~~[(f) An insurer that violates Subsection (c) or (e) of this section is liable to a preferred provider for the full amount of billed charges submitted on the claim or the amount payable under the contracted penalty rate, less any amount previously paid or any charge for a service that is not covered by the health insurance policy].~~

(m) The insurer's claims payment processes shall:

(1) use nationally recognized, generally accepted Correct Procedural Terminology codes, including all relevant modifiers; and

(2) be consistent with nationally recognized, generally accepted, clinically appropriate bundling logic and edits.

(n) [(g)] A preferred provider may recover reasonable attorney's fees and court costs in an action to recover payment under this section.

(o) [(h)] In addition to any other penalty or remedy authorized by this code or another insurance law of this state, an insurer that violates Subsection (c) or (i) [(e)] of this section is subject to an administrative penalty under Article 1.10E of this code. The administrative penalty imposed under that article may not exceed \$1,000 for each day the claim remains unpaid in violation of Subsection (c) or (i) [(e)] of this section.

(p) [(i)] The insurer shall provide a preferred provider with copies of all applicable utilization review policies and claim processing policies or procedures[~~, including required data elements and claim formats~~].

(q) [(j)] ~~An insurer may, by contract with a preferred provider, add or change the data elements that must be submitted with the preferred provider claim.~~

[(k)] ~~Not later than the 60th day before the date of an addition or change in the data elements that must be submitted with a claim or any other change in an insurer's claim processing and payment procedures, the insurer shall provide written notice of the addition or change to each preferred provider.~~

[(l)] ~~This section does not apply to a claim made by a preferred provider who is a member of the legislature.~~

[(m)] This section applies to a person with whom an insurer contracts to process claims or to obtain the services of preferred providers to provide medical care or health care to insureds under a health insurance policy.

(r) [(n)] The commissioner of insurance may adopt rules as necessary to implement this section.

SECTION 3. Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Sections 3B-3I, 10, 11, and 12 to read as follows:

Sec. 3B. ELEMENTS OF CLEAN CLAIM. (a) A claim by a physician or provider, other than an institutional provider, is a "clean claim" if the claim is submitted using Health Care Financing Administration Form 1500 or a successor to that form developed by the National Uniform Billing Committee or its successor and adopted by the commissioner by rule for the purposes of this subsection that is submitted to an insurer for payment and that contains the information required by the commissioner by rule for the purposes of this subsection entered into the appropriate fields on the form.

(b) A claim by an institutional provider is a "clean claim" if the claim is submitted using Health Care Financing Administration Form UB-92 or a successor to that form developed by the National Uniform Billing Committee or its successor and adopted by the commissioner by rule for the purposes of this subsection that is submitted to an insurer for payment and that contains the information required by the commissioner by rule for the purposes of this subsection entered into the appropriate fields on the form.

(c) An insurer may require any data element that is required in an electronic transaction set needed to comply with federal law. An insurer may not require a physician or provider to provide information other than information for a data field included on the form used for a clean claim under Subsection (a) or (b) of this section, as applicable.

(d) A claim submitted by a physician or provider that includes additional fields, data elements, attachments, or other information not required under this section is considered to be a clean claim for the purposes of this article.

Sec. 3C. OVERPAYMENT. An insurer may recover an overpayment to a physician or provider if:

(1) not later than the 180th day after the date the physician or provider receives the payment, the insurer provides written notice of the overpayment to the physician or provider that includes the basis and specific reasons for the request for recovery of funds; and

(2) the physician or provider does not make arrangements for repayment of the requested funds on or before the 45th day after the date the physician or provider receives the notice.

Sec. 3D. VERIFICATION OF ELIGIBILITY FOR PAYMENT. (a) On the request of a physician or provider for verification of the eligibility for payment of a particular medical care or health care service the physician or provider proposes to provide to a particular patient, the insurer shall inform the physician or provider whether the service, if provided to that patient, is eligible for payment from the insurer to the physician or provider.

(b) An insurer shall provide verification under this section between 6 a.m. and 6 p.m. central standard time each day.

(c) Verification under this section shall be made in good faith and without delay.

Sec. 3E. COORDINATION OF PAYMENT. (a) An insurer may require a physician or provider to retain in the physician's or provider's records updated information concerning other health benefit plan coverage and to provide the information to the insurer on the applicable form described by Section 3B of this article. Except as provided in this subsection, an insurer may not require a physician or provider to investigate coordination of other health benefit plan coverage.

(b) Coordination of payment under this section does not extend the period for determining whether a service is eligible for payment under Section 3A(e) of this article.

(c) A physician or provider who submits a claim for particular medical care or health care services to more than one health maintenance organization or insurer shall provide written notice on the claim submitted to each health maintenance organization or insurer of the identity of each other health maintenance organization or insurer with which the same claim is being filed.

(d) On receipt of notice under Subsection (c) of this section, an insurer shall coordinate and determine the appropriate payment for each health maintenance organization or insurer to make to the physician or provider.

(e) If an insurer is a secondary payor and pays more than the amount for which the insurer is legally obligated, the insurer may recover the amount of the overpayment from the health maintenance organization or insurer that is primarily responsible for that amount.

(f) If the portion of the claim overpaid by the secondary insurer was also paid by the primary health maintenance organization or insurer, the secondary insurer may recover the amount of overpayment under Section 3C of this article from the physician or provider who received the payment.

(g) An insurer may share information with another health maintenance organization or insurer to the extent necessary to coordinate appropriate payment obligations on a specific claim.

(h) The provisions of this section may not be waived, voided, or nullified by contract.

Sec. 3F. PREAUTHORIZATION OF MEDICAL AND HEALTH CARE SERVICES. (a) An insurer that uses a preauthorization process for medical care and health care services shall provide each participating physician or health care provider, not later than the 10th working day after the date a request is made, a list of medical care and health care services that require preauthorization and information concerning the preauthorization process.

(b) If proposed medical care or health care services require preauthorization as a condition of the insurer's payment to a physician or health care provider under a health insurance policy or a physician or health care provider requests preauthorization of proposed medical care or health care services, the insurer shall determine whether the medical care or health care services proposed to be provided to the insured are medically necessary and appropriate.

(c) On receipt of a request from a physician or health care provider for preauthorization, the insurer shall review and issue a determination indicating whether the proposed services are preauthorized. If the determination requires a determination of medical necessity and appropriateness of the proposed medical care or health care services, the determination must be mailed or otherwise transmitted not later than the third calendar day after the date the request is received by the insurer.

(d) If the proposed medical care or health care services involve inpatient care, the determination issued by the insurer must be provided within one calendar day of the request by telephone or electronic transmission to the physician or health care provider of record and followed by written notice to the physician or provider on or before the third day after the date of the request and must specify an approved length of stay for admission into a health care facility based on the recommendation of the patient's physician or health care provider and the insurer's written medically acceptable screening criteria and review procedures. The criteria and procedures must be established, periodically evaluated, and updated.

(e) If an insurer has preauthorized medical care or health care services, the insurer may not deny or reduce payment to the physician or health care provider for those services unless the physician or health care provider has materially misrepresented the proposed medical care or health care services or has substantially failed to perform the proposed medical care or health care services.

(f) This section applies to an agent or other person with whom an insurer contracts to perform, or to whom the insurer delegates the performance of, preauthorization of proposed medical or health care services.

Sec. 3G. AVAILABILITY OF CODING GUIDELINES. (a) A preferred provider contract between an insurer and a physician or provider must provide that:

(1) the physician or provider may request a description of the coding guidelines, including any underlying bundling, recoding, or other payment process and fee schedules applicable to specific procedures that the physician or provider will receive under the contract;

(2) the insurer or the insurer's agent will provide the guidelines not later than the 30th day after the date the insurer receives the request;

(3) the insurer will provide notice of material changes to the coding guidelines and fee schedules not later than the 90th day before the date the changes take effect and will not make retroactive revisions to the coding guidelines and fee schedules; and

(4) the contract may be terminated by the physician or provider on or before the 30th day after the date the physician or provider receives information requested under this subsection without penalty or discrimination in participation in other health care products or plans.

(b) A physician or provider who receives information under Subsection (a) of this section may use or disclose the information only for the purpose of practice management, billing activities, or other business operations. The commissioner may impose and collect a penalty of \$1,000 for each use or disclosure of the information that violates this subsection.

Sec. 3H. DISPUTE RESOLUTION. (a) An insurer may not require by contract or otherwise the use of a dispute resolution procedure or binding arbitration with a physician or health care provider. This subsection does not prohibit an insurer from offering a dispute resolution procedure or binding arbitration to resolve a dispute if the insurer and the physician or provider consent to the process after the dispute arises. This subsection may not be construed to conflict with any applicable appeal mechanisms required by law.

(b) The provisions of this section may not be waived or nullified by contract.

Sec. 3I. AUTHORITY OF ATTORNEY GENERAL. In addition to any other remedy available for a violation of this article, the attorney general may take action and seek remedies available under Section 15, Article 21.21 of this code, and Sections 17.58, 17.60, 17.61, and 17.62, Business & Commerce Code, for a violation of Section 3A or 7 of this article.

Sec. 10. SERVICES PROVIDED BY CERTAIN PHYSICIANS AND HEALTH CARE PROVIDERS. The provisions of this article relating to prompt payment by an insurer of a physician or health care provider and to preauthorization of medical care or health care services apply to a physician or health care provider who:

(1) is not a preferred provider under a preferred provider benefit plan; and

(2) provides to an insured:

(A) emergency care; or

(B) specialty or other medical care or health care services at the request of the insurer or a preferred provider because the services are not reasonably available from a preferred provider.

Sec. 11. CONFLICT WITH OTHER LAW. To the extent of any conflict between this article and Article 21.52C of this code, this article controls.

Sec. 12. APPLICATION OF CERTAIN PROVISIONS UNDER MEDICAID. A provision of this article may not be interpreted as requiring an insurer, physician, or health care provider, in providing benefits or services under the state Medicaid program, to:

(1) use billing forms or codes that are inconsistent with those required under the state Medicaid program; or

(2) make determinations relating to medical necessity or appropriateness or eligibility for coverage in a manner different than that required under the state Medicaid program.

SECTION 4. Section 2, Texas Health Maintenance Organization Act (Chapter 20A.02, Vernon's Texas Insurance Code), is amended by adding Subdivision (ff) to read as follows:

(ff) "Preauthorization" means a reliable representation by a health maintenance organization to a physician or provider that the health maintenance organization will pay the physician or provider for proposed medical care or health care services if the physician or provider renders those services to the patient for whom the services are proposed. The term includes precertification, certification, re-certification, or any other term that would be a reliable representation by a health maintenance organization to a physician or provider.

SECTION 5. Section 18B, Texas Health Maintenance Organization Act (Section 20A.18B, Vernon's Texas Insurance Code), is amended to read as follows:

Sec. 18B. PROMPT PAYMENT OF PHYSICIAN AND PROVIDERS. (a) In this section, "clean claim" means a ~~[completed]~~ claim that complies with Section 18D of this Act[, as determined under Texas Department of Insurance rules, submitted by a physician or provider for medical care or health care services under a health care plan].

(b) A physician or provider must submit a claim under this section to a health maintenance organization not later than the 95th day after the date the physician or provider provides the medical care or health care services for which the claim is made. A health maintenance organization shall accept as proof of timely filing a claim filed in compliance with Subsection (c) of this section or information from another health maintenance organization showing that the physician or provider submitted the claim to the health maintenance organization in compliance with Subsection (c) of this section. If a physician or provider fails to submit a claim in compliance with this subsection, the physician or provider forfeits the right to payment. The period for submitting a claim under this subsection may be extended by contract. A physician or provider may not submit a duplicate claim for payment before the 46th day after the date the original claim was submitted. The commissioner shall adopt rules under which a health maintenance organization may determine whether a claim is a duplicate claim [A physician or provider for medical care or health care services under a health care plan may obtain acknowledgment of receipt of a claim for medical care or health care services under a health care plan by submitting the claim by United States mail, return receipt requested. A health maintenance organization or the contracted

~~clearinghouse of the health maintenance organization that receives a claim electronically shall acknowledge receipt of the claim by an electronic transmission to the physician or provider and is not required to acknowledge receipt of the claim by the health maintenance organization in writing].~~

(c) A physician or provider shall, as appropriate:

(1) mail a claim by United States mail, first class, or by overnight delivery service, and maintain a log of mailed claims and include a copy of the log with the claim;

(2) submit the claim electronically and maintain a log of electronically submitted claims;

(3) fax the claim and maintain a log of all faxed claims; or

(4) hand deliver the claim and maintain a log of all hand-delivered claims.

(d) If a claim for medical care or health care services under a health care plan is mailed, the claim is presumed to have been received by the health maintenance organization on the third day after the date the claim is mailed or, if the claim is mailed using overnight service or return receipt requested, on the date the delivery receipt is signed. If the claim is submitted electronically, the claim is presumed to have been received on the date of the electronic verification of receipt by the health maintenance organization or the health maintenance organization's clearinghouse. If the health maintenance organization or the health maintenance organization's clearinghouse does not provide a confirmation within 24 hours of submission by the physician or provider, the physician's or provider's clearinghouse shall provide the confirmation. If the claim is faxed, the claim is presumed to have been received on the date of the transmission acknowledgment. If the claim is hand delivered, the claim is presumed to have been received on the date the delivery receipt is signed.

(e) Not later than the 45th day after the date that the health maintenance organization receives a clean claim from a physician or provider, the health maintenance organization shall make a determination of whether the claim is eligible for payment and:

(1) if the health maintenance organization determines the entire claim is eligible for payment, pay the total amount of the claim in accordance with the contract between the physician or provider and the health maintenance organization;

(2) if the health maintenance organization disputes a portion of the claim, pay the portion of the claim that is not in dispute and notify the physician or provider in writing why the remaining portion of the claim will not be paid; or

(3) if the health maintenance organization determines that the claim is not eligible for payment, notify the physician or provider in writing why the claim will not be paid.

(f) Not later than the 21st day after the date a health maintenance organization or the health maintenance organization's designated agent affirmatively adjudicates a pharmacy benefit claim that is electronically submitted, the health maintenance organization shall:

(1) pay the total amount of the claim; or

(2) notify the benefit provider of the reasons for denying payment of the claim.

(g) A health maintenance organization that determines under Subsection (e) of this section that a claim is eligible for payment and does not pay the claim on or before the 45th day after the date the health maintenance organization receives a clean claim commits an unfair claim settlement practice in violation of Article 21.21-2, Insurance Code, and is subject to an administrative penalty under Chapter 84, Insurance Code. The health maintenance organization shall pay the physician or provider making the claim the full amount of billed charges submitted on the claim and interest on the billed charges at a rate of 15 percent annually, except that the health maintenance organization is not required to pay a physician or provider with whom the health maintenance organization has a contract an amount of billed charges that exceeds the amount billable under a fee schedule provided by the physician or provider to the health maintenance organization on or before the 30th day after the date the physician or provider enters into the contract with the health maintenance organization. The physician or provider may modify the fee schedule if the physician or provider notifies the health maintenance organization of the modification on or before the 90th day before the date the modification takes effect.

(h) The investigation and determination of eligibility for payment, including any coordination of other payments, does not extend the period for determining whether a claim is eligible for payment under Subsection (e) of this section ~~[(d) If a prescription benefit claim is electronically adjudicated and electronically paid, and the health maintenance organization or its designated agent authorizes treatment, the claim must be paid not later than the 21st day after the treatment is authorized].~~

(i) Except as provided by Subsection (j) of this section, if [(e) If] the health maintenance organization acknowledges coverage of an enrollee under the health care plan but intends to audit the physician or provider claim, the health maintenance organization shall pay the charges submitted at 85 percent of the contracted rate on the claim not later than the 45th day after the date that the health maintenance organization receives the claim from the physician or provider. The health maintenance organization shall complete ~~[Following completion of]~~ the audit, and any additional payment due a physician or provider or any refund due the health maintenance organization shall be made not later than the 90th [30th] day after the [later of the] date the claim is received by the health maintenance organization [that:

[(1) the physician or provider receives notice of the audit results; or
[(2) any appeal rights of the enrollee are exhausted].

(j) If a health maintenance organization needs additional information from a treating physician or provider to determine eligibility for payment, the health maintenance organization, not later than the 30th calendar day after the date the health maintenance organization receives a clean claim, shall request in writing that the physician or provider provide any attachment to the claim the health maintenance organization desires in good faith for clarification of the claim. The request must describe with specificity the clinical information requested and relate only to information the health maintenance organization can demonstrate is specific to the claim or the

claim's related episode of care. A health maintenance organization that requests an attachment under this subsection shall determine whether the claim is eligible for payment on or before the later of the 15th day after the date the health maintenance organization receives the attachment or the latest date for determining whether the claim is eligible for payment under Subsection (e) of this section. A health maintenance organization may not make more than one request under this subsection in connection with a claim. Subsections (c) and (d) of this section apply to a request for and submission of an attachment under this subsection.

(k) If a health maintenance organization requests an attachment or other information from a person other than the physician or provider who submitted the claim, the health maintenance organization shall provide a copy of the request to the physician or provider who submitted the claim. The health maintenance organization may not withhold payment pending receipt of an attachment or information requested under this subsection. If on receiving an attachment or information requested under this subsection the health maintenance organization determines an error in payment of the claim, the health maintenance organization may recover under Section 18E of this Act.

(l) The commissioner shall adopt rules under which a health maintenance organization can easily identify attachments or information submitted by a physician or provider [(f) A health maintenance organization that violates Subsection (c) or (e) of this section is liable to a physician or provider for the full amount of billed charges submitted on the claim or the amount payable under the contracted penalty rate, less any amount previously paid or any charge for a service that is not covered by the health care plan].

(m) A health maintenance organization's claims payment processes must:

(1) use nationally recognized, generally accepted Correct Procedural Terminology codes, including all relevant modifiers; and

(2) be consistent with nationally recognized, generally accepted, clinically appropriate bundling logic and edits.

(n) [(g)] A physician or provider may recover reasonable attorney's fees and court costs in an action to recover payment under this section.

(o) [(h)] In addition to any other penalty or remedy authorized by the Insurance Code or another insurance law of this state, a health maintenance organization that violates Subsection (c) or (i) [(e)] of this section is subject to an administrative penalty under Article 1.10E, Insurance Code. The administrative penalty imposed under that article may not exceed \$1,000 for each day the claim remains unpaid in violation of Subsection (c) or (i) [(e)] of this section.

(p) [(i)] The health maintenance organization shall provide a participating physician or provider with copies of all applicable utilization review policies and claim processing policies or procedures[, including required data elements and claim formats].

(q) [(j)] A health maintenance organization may, by contract with a physician or provider, add or change the data elements that must be submitted with the physician or provider claim.

[(k) Not later than the 60th day before the date of an addition or change in the data elements that must be submitted with a claim or any other change in a health maintenance organization's claim processing and payment

~~procedures, the health maintenance organization shall provide written notice of the addition or change to each participating physician or provider.~~

~~[(t)] This section does not apply to a claim made by a physician or provider who is a member of the legislature.~~

~~[(m)] This section does not apply to a capitation payment required to be made to a physician or provider under an agreement to provide medical care or health care services under a health care plan.~~

~~[(r)] [(n)] This section applies to a person with whom a health maintenance organization contracts to process claims or to obtain the services of physicians and providers to provide health care services to health care plan enrollees.~~

~~[(s)] [(o)] The commissioner may adopt rules as necessary to implement this section.~~

SECTION 6. The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding Sections 18D-18L, 40, and 41 to read as follows:

Sec. 18D. ELEMENTS OF CLEAN CLAIM. (a) A claim by a physician or provider, other than an institutional provider, is a "clean claim" if the claim is submitted using Health Care Financing Administration Form 1500 or a successor to that form developed by the National Uniform Billing Committee or its successor and adopted by the commissioner by rule for the purposes of this subsection that is submitted to a health maintenance organization for payment and that contains the information required by the commissioner by rule for the purposes of this subsection entered into the appropriate fields on the form.

(b) A claim by an institutional provider is a "clean claim" if the claim is submitted using Health Care Financing Administration Form UB-92 or a successor to that form developed by the National Uniform Billing Committee or its successor and adopted by the commissioner by rule for the purposes of this subsection that is submitted to a health maintenance organization for payment and that contains the information required by the commissioner by rule for the purposes of this subsection entered into the appropriate fields on the form.

(c) A health maintenance organization may require any data element that is required in an electronic transaction set needed to comply with federal law. A health maintenance organization may not require a physician or provider to provide information other than information for a data field included on the form used for a clean claim under Subsection (a) or (b) of this section, as applicable.

(d) A claim submitted by a physician or provider that includes additional fields, data elements, attachments, or other information not required under this section is considered to be a clean claim for the purposes of this section.

Sec. 18E. OVERPAYMENT. A health maintenance organization may recover an overpayment to a physician or provider if:

(1) not later than the 180th day after the date the physician or provider receives the payment, the health maintenance organization provides written notice of the overpayment to the physician or provider that includes the basis and specific reasons for the request for recovery of funds; and

(2) the physician or provider does not make arrangements for

repayment of the requested funds on or before the 45th day after the date the physician or provider receives the notice.

Sec. 18F. VERIFICATION OF ELIGIBILITY FOR PAYMENT. (a) On the request of a physician or provider for verification of the payment eligibility of a particular medical care or health care service the physician or provider proposes to provide to a particular patient, the health maintenance organization shall inform the physician or provider whether the service, if provided to that patient, is eligible for payment from the health maintenance organization to the physician or provider.

(b) A health maintenance organization shall provide verification under this section between 6 a.m. and 6 p.m. central standard time each day.

(c) Verification under this section shall be made in good faith and without delay.

Sec. 18G. COORDINATION OF PAYMENT BENEFITS. (a) A health maintenance organization may require a physician or provider to retain in the physician's or provider's records updated information concerning other health benefit plan coverage and to provide the information to the health maintenance organization on the applicable form described by Section 18D of this Act. Except as provided by this subsection, a health maintenance organization may not require a physician or provider to investigate coordination of other health benefit plan coverage.

(b) Coordination of other payment under this section does not extend the period for determining whether a service is eligible for payment under Section 18B(e) of this Act.

(c) A physician or provider who submits a claim for particular medical care or health care services to more than one health maintenance organization or insurer shall provide written notice on the claim submitted to each health maintenance organization or insurer of the identity of each other health maintenance organization or insurer with which the same claim is being filed.

(d) On receipt of notice under Subsection (c) of this section, a health maintenance organization shall coordinate and determine the appropriate payment for each health maintenance organization or insurer to make to the physician or provider.

(e) If a health maintenance organization is a secondary payor and pays more than the amount for which the health maintenance organization is legally obligated, the overpayment may be recovered from the health maintenance organization or insurer that is primarily responsible for that amount.

(f) If the portion of the claim overpaid by the secondary health maintenance organization was also paid by the primary health maintenance organization or insurer, the secondary health maintenance organization may recover the amount of the overpayment under Section 18E of this Act from the physician or provider who received the payment.

(g) A health maintenance organization may share information with another health maintenance organization or insurer to the extent necessary to coordinate appropriate payment obligations on a specific claim.

(h) The provisions of this section may not be waived, voided, or nullified by contract.

Sec. 18H. PREAUTHORIZATION OF MEDICAL AND HEALTH CARE

SERVICES. (a) A health maintenance organization that uses a preauthorization process for medical care and health care services shall provide each participating physician or provider, not later than the 10th working day after the date a request is made, a list of the medical care and health care services that do not require preauthorization and information concerning the preauthorization process.

(b) If proposed medical care or health care services require preauthorization by a health maintenance organization as a condition of the health maintenance organization's payment to a physician or provider or a physician or provider requests preauthorization of proposed medical care or health care services, the health maintenance organization shall determine whether the medical care or health care services proposed to be provided to the enrollee are medically necessary and appropriate.

(c) On receipt of a request from a physician or provider for preauthorization, the health maintenance organization shall review and issue a determination indicating whether the services are preauthorized. If the determination requires a determination of medical necessity and appropriateness of the proposed medical care or health care services, the determination must be mailed or otherwise transmitted not later than the third calendar day after the date the request is received by the insurer.

(d) If the proposed medical care or health care services involve inpatient care, the determination issued by the health maintenance organization must be provided within one calendar day of the request by telephone or electronic transmission to the physician or provider of record and followed by written notice to the physician or provider on or before the third day after the date of the request and must specify an approved length of stay for admission into a health care facility based on the recommendation of the patient's physician or provider and the health maintenance organization's written medically acceptable screening criteria and review procedures. The criteria and procedures must be established, periodically evaluated, and updated.

(e) If the health maintenance organization has preauthorized medical care or health care services, the health maintenance organization may not deny or reduce payment to the physician or provider for those services unless the physician or provider has materially misrepresented the proposed medical care or health care services or has substantially failed to perform the proposed medical care or health care services.

(f) This section applies to an agent or other person with whom a health maintenance organization contracts to perform, or to whom the health maintenance organization delegates the performance of, preauthorization of proposed medical care or health care services.

Sec. 18I. SERVICES PROVIDED BY CERTAIN PHYSICIANS AND PROVIDERS. The provisions of this Act relating to prompt payment by a health maintenance organization of a physician or provider and to preauthorization of medical care or health care services apply to a physician or provider who:

(1) is not included in the health maintenance organization delivery network; and

(2) provides to an enrollee:

(A) emergency care; or

(B) specialty or other medical care or health care services at the request of the health maintenance organization or a physician or provider who is included in the health maintenance organization delivery network because the services are not reasonably available within the network.

Sec. 18J. AVAILABILITY OF CODING GUIDELINES. (a) A contract between a health maintenance organization and a physician or provider must provide that:

(1) the physician or provider may request a description of the coding guidelines, including any underlying bundling, recoding, or other payment process and fee schedules applicable to specific procedures that the physician or provider will receive under the contract;

(2) the health maintenance organization will provide the guidelines not later than the 30th day after the date the health maintenance organization receives the request;

(3) the health maintenance organization will provide notice of material changes to the coding guidelines and fee schedules not later than the 90th day before the date the changes take effect and will not make retroactive revisions to the coding guidelines and fee schedules; and

(4) the contract may be terminated by the physician or provider on or before the 30th day after the date the physician or provider receives information requested under this subsection without penalty or discrimination in participation in other health care products or plans.

(b) A physician or provider who receives information under Subsection (a) of this section may use or disclose the information only for the purpose of practice management, billing activities, or other business operations. The commissioner may impose and collect a penalty of \$1,000 for each use or disclosure of the information that violates this subsection.

Sec. 18K. DISPUTE RESOLUTION. (a) A health maintenance organization may not require by contract or otherwise the use of a dispute resolution procedure or binding arbitration with a physician or provider. This subsection does not prohibit a health maintenance organization from offering a dispute resolution procedure or binding arbitration to resolve a dispute if the health maintenance organization and the physician or provider consent to the process after the dispute arises. This subsection may not be construed to conflict with any applicable appeal mechanisms required by law.

(b) The provisions of this section may not be waived or nullified by contract.

Sec. 18L. AUTHORITY OF ATTORNEY GENERAL. In addition to any other remedy available for a violation of this Act, the attorney general may take action and seek remedies available under Section 15, Article 21.21, Insurance Code, and Sections 17.58, 17.60, 17.61, and 17.62, Business & Commerce Code, for a violation of Section 14 or 18B of this Act.

Sec. 40. CONFLICT WITH OTHER LAW. To the extent of any conflict between this Act and Article 21.52C, Insurance Code, this Act controls.

Sec. 41. APPLICATION OF CERTAIN PROVISIONS UNDER MEDICAID. A provision of this Act may not be interpreted as requiring a health maintenance organization, physician, or provider, in providing benefits or services under the state Medicaid program, to:

(1) use billing forms or codes that are inconsistent with those required under the state Medicaid program; or

(2) make determinations relating to medical necessity or appropriateness or eligibility for coverage in a manner different than that required under the state Medicaid program.

SECTION 7. (a) The changes in law made by this Act relating to payment of a physician or health care provider for medical or health care services apply only to payment for services provided on or after the effective date of this Act.

(b) The changes in law made by this Act relating to a contract between a physician or health care provider and an insurer or health maintenance organization apply only to a contract entered into or renewed on or after the effective date of this Act.

SECTION 8. This Act takes effect September 1, 2001.

Amendment No. 2

Representative Eiland offered the following amendment to Amendment No. 1:

Amend the Eiland amendment to **CSHB 1862** as follows:

(1) On page 18, line 27, between "after" and "the" insert "receipt of a claim or 45 days after receipt of a completed attachment from the physician or provider, whichever is later".

(2) On page 18, lines 27-28, strike "date the claim is received by the health maintenance organization".

(3) On page 19, line 15, between "the" and "attachment" insert "completed".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Eiland offered the following amendment to Amendment No. 1:

Amend the floor substitute for **CSHB 1862** as follows:

(1) On page 1, line 7, between "Preauthorization" and "means", insert the following:

means a determination by the insurer that the medical care or health care services proposed to be provided to a patient are medically necessary and appropriate.

(15) "Verification"

(2) On page 4, line 12, between "claim" and "the full", insert "the lesser of".

(3) On page 4, lines 14-16, strike ", except that the insurer is not required to pay a preferred provider an amount of billed charges that exceeds the amount billable" and substitute "or two times the contracted rate and interest on that amount at a rate of 15 percent annually. Billed charges shall be established".

(4) On page 9, between lines 15 and 16, insert the following:

(d) In this section, "verification" includes any required preauthorization process.

(e) An insurer may establish a time certain for the validity of verification.

(f) If an insurer has verified medical care or health care services, the insurer may not deny or reduce payment to a physician or health care provider for those services unless:

(1) the physician or provider has materially misrepresented the proposed medical or health care services or has substantially failed to perform the proposed medical or health care services; or

(2) the insurer certifies in writing:

(A) that the patient was not a covered enrollee of the health plan;

(B) the insurer was notified on or before the 30th day after the date the patient's enrollment ended; and

(C) the physician or provider was notified that the patient's enrollment ended on or before the 30th day after the date of verification under this section.

(5) On page 11, lines 1 and 2, strike "or a physician or health care provider requests preauthorization of proposed medical care or health care services".

(6) On page 11, lines 9-11, strike "If the determination requires a determination of medical necessity and appropriateness of the proposed medical care or health care services, the" and substitute "The".

(7) Strike page 11, lines 28-31, and page 12, line 1, and substitute the following:

physician or health care provider for those services unless:

(1) the physician or provider has materially misrepresented the proposed medical or health care services or has substantially failed to perform the proposed medical or health care services; or

(2) the insurer certifies in writing:

(A) that the patient was not a covered enrollee of the health plan;

(B) the insurer was notified on or before the 30th day after the date the patient's enrollment ended; and

(C) the physician or provider was notified that the patient's enrollment ended on or before the 30th day after the date of verification under this section.

(8) On page 13, line 22, strike "preauthorization" and substitute "verification".

(9) On page 14, line 16, between "Preauthorization" and "means", insert the following:

means a determination by the health maintenance organization that the medical care or health care services proposed to be provided to a patient are medically necessary and appropriate.

(gg) "Verification"

(10) On page 23, between lines 17 and 18, insert the following:

(d) In this section, "verification" includes any required preauthorization process.

(e) A health maintenance organization may establish a time certain for the validity of verification.

(f) If a health maintenance organization has verified medical care or health care services, the health maintenance organization may not deny or

reduce payment to a physician or health care provider for those services unless:

(1) the physician or provider has materially misrepresented the proposed medical or health care services or has substantially failed to perform the proposed medical or health care services; or

(2) the health maintenance organization certifies in writing:

(A) that the patient was not a covered enrollee of the health plan;

(B) the health maintenance organization was notified on or before the 30th day after the date the patient's enrollment ended; and

(C) the physician or provider was notified that the patient's enrollment ended on or before the 30th day after the date of verification under this section.

(11) On page 25, lines 7-8, strike "or a physician or provider requests preauthorization of proposed medical care or health care services".

(12) On page 25, lines 15-17, strike "If the determination requires a determination of medical necessity and appropriateness of the proposed medical care or health care services, the" and substitute "The".

(13) On page 26, strike lines 4-7, and substitute the following:
provider for those services unless:

(1) the physician or provider has materially misrepresented the proposed medical or health care services or has substantially failed to perform the proposed medical or health care services; or

(2) the health maintenance organization certifies in writing:

(A) that the patient was not a covered enrollee of the health plan;

(B) the health maintenance organization was notified on or before the 30th day after the date the patient's enrollment ended; and

(C) the physician or provider was notified that the patient's enrollment ended on or before the 30th day after the date of verification under this section.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative G. Lewis offered the following amendment to Amendment No. 1:

Amend the Eiland floor amendment to **CSHB 1862** as follows:

On page 27, line 20, strike "commissioner" and substitute "Attorney General".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative G. Lewis offered the following amendment to Amendment No. 1:

Amend the proposed floor substitute to **CSHB 1862** as follows:

(1) On page 16, line 21, between "confirmation." and "If" insert "The physician or provider's clearinghouse must be able to verify that the filing contained the correct address of the entity to receive the filing.".

(2) On page 16, line 24, at the end of (d) add "The commissioner shall promulgate a form to be submitted by the physician or provider which easily identifies all claims included in each filing which can be utilized by the physician or provider as their log.".

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative G. Lewis offered the following amendment to Amendment No. 1:

Amend the Eiland floor amendment to **CSHB 1862** as follows:

On page 27, line 23, insert "(c) Nothing in this section shall be interpreted to require a health maintenance organization to violate copyright or other law by disclosing proprietary software that the health maintenance organization has licensed. In addition to the above, the health maintenance organization shall, on request of the physician or provider, provide the name, edition, and model version of the software that the health maintenance organization uses to determine bundling and unbundling of claims.".

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Kitchen offered the following amendment to Amendment No. 1:

Amend the Eiland amendment to **CSHB 1862** as follows:

(1) On page 28, line 19, strike "or".

(2) On page 28, line 22, strike "." and add "or; (3) Reimburse physicians or providers for services rendered to a person who was not eligible to receive benefits for such services under the state Medicaid program."

Amendment No. 7 was adopted without objection.

Amendment No. 1, as amended, was adopted.

CSHB 1862, as amended, was passed to engrossment. (Shields recorded voting no)

**SB 365 ON THIRD READING
(Ritter - House Sponsor)**

SB 365, A bill to be entitled An Act relating to the adoption of a uniform residential building code for use in the state.

SB 365 was read third time earlier today and was postponed until this time.

SB 365 was passed.

(Speaker pro tempore in the chair)

**GENERAL STATE CALENDAR
(consideration continued)**

**HB 1254 ON SECOND READING
(by West)**

HB 1254, A bill to be entitled An Act relating to the extension of uniform group benefits for political subdivisions to certain affiliated service contractors.

HB 1254 was passed to engrossment.

CSHB 909 ON SECOND READING**(by Talton, Hinojosa, Keel, B. Turner, Crabb, et al.)**

CSHB 909, A bill to be entitled An Act relating to the forfeiture of profits received from the sale of crime memorabilia.

Representative Talton moved to postpone consideration of **CSHB 909** until 10 a.m. Monday, April 30.

The motion prevailed without objection.

HB 2972 ON SECOND READING**(by Talton, Edwards, and Bailey)**

HB 2972, A bill to be entitled An Act relating to local control of police officer employment matters by certain municipalities.

HB 2972 was passed to engrossment.

CSHB 1445 ON SECOND READING**(by B. Turner)**

CSHB 1445, A bill to be entitled An Act relating to the authority of municipalities and counties to regulate subdivisions in the extraterritorial jurisdiction of a municipality.

Amendment No. 1

Representative B. Turner offered the following amendment to **CSHB 1445**:

Amend **CSHB 1445** as follows:

- (1) On page 1, line 15, strike "(e)" and substitute "(d)".
- (2) On page 2, line 3, strike "A" and substitute "Except as provided by Subsection (d)(4), a".
- (3) On page 2, line 5, strike "On or before January 1, 2002, the" and substitute "The".
- (4) On page 2, line 8, after the period, insert "For a municipality in existence on September 1, 2001, the municipality and county shall enter into a written agreement under this subsection on or before January 1, 2002. For a municipality incorporated after September 1, 2001, the municipality and county shall enter into a written agreement under this subsection not later than the 120th day after the date the municipality incorporates."
- (5) On page 3, strike lines 8-21 and substitute the following:
 - (4) the municipality and the county may enter into an interlocal agreement that:
 - (A) establishes one office that is authorized to:
 - (i) accept plat applications for tracts of land located in the extraterritorial jurisdiction;
 - (ii) collect municipal and county plat application fees in a lump-sum amount; and
 - (iii) provide applicants one response indicating approval or denial of the plat application; and
 - (B) establishes a consolidated and consistent set of regulations related to plats and subdivisions of land as authorized by

Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter 232, and other statutes applicable to municipalities and counties that will be enforced in the extraterritorial jurisdiction~~[- If a municipal regulation conflicts with a county regulation, the more stringent provisions prevail].~~

(6) On page 3, strike lines 22-27, and on page 4, strike lines 1-10, and substitute the following:

(e) If a municipality and a county fail to enter into a written agreement as required by Subsection (c), the issues in dispute shall be submitted to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator not later than the fifth day after the expiration of the period prescribed by Subsection (c) for entering into a written agreement. Each party shall submit its final proposal to the arbitrator not later than the 15th day after the expiration of the period prescribed by Subsection (c) for entering into a written agreement. If the parties cannot agree on an arbitrator, the county shall select an arbitrator, the municipality shall select an arbitrator, and those two arbitrators shall select an arbitrator who will decide the issues in dispute. Each party shall pay one-half of the arbitration costs. The arbitrator shall issue a decision not later than the 45th day after the expiration of the period prescribed by Subsection (c) for entering into a written agreement. An arbitration decision issued under this subsection is enforceable in a court in the county in which the municipality's extraterritorial jurisdiction is located.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

CSHB 1445 - (consideration continued)

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Hamric offered the following amendment to **CSHB 1445**:

Amend **CSHB 1445** as follows:

1. On page 1, line 11, add a sentence to read as follows:

"Subsections (b)-(e) do not apply to a county with a municipality with a population of 1.9 million or more, or to the extraterritorial jurisdiction of such a municipality. Subsection (g) applies to a county and area to which Subsections (b)-(e) do not apply".

2. On page 4, after line 16, insert a new Subsection (g) to read as follows:

(g) For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. However, if one of those governmental entities requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that

subdivision of the land. The certification must be attached to a plat required to be filed under this subsection.

Amendment No. 2 was adopted without objection.

CSHB 1445, as amended, was passed to engrossment. (F. Brown recorded voting no)

CSHB 1446 ON SECOND READING
(by Junell, Raymond, et al.)

CSHB 1446, A bill to be entitled An Act relating to a college savings plan for qualified higher education expenses.

Representative Junell moved to postpone consideration of **CSHB 1446** until 10 a.m. Monday, April 30.

The motion prevailed without objection.

CSHB 2530 ON SECOND READING
(by Junell)

CSHB 2530, A bill to be entitled An Act relating to certain prohibitions applicable to a person offering a sweepstakes; providing a civil penalty.

Amendment No. 1

Representative Hartnett offered the following amendment to **CSHB 2530**:

Amend **CSHB 2530** as follows:

(1) On page 1, between lines 14 and 15, insert the following:

(3) "Video sweepstakes" means a coin operated machine with a video interface operated for pleasure that dispenses as a reward for play money or items redeemable for money or merchandise.

(2) On page 1, between "OFFENSES." and "A", insert "(a)".

(3) On page 5, between line 20 and 21, insert the following:

(b) A person may not operate a video sweepstakes in this state.

(c) The prohibition of operating a video sweepstakes as set out in Subsection (b) does not authorize any otherwise illegal activity.

(4) On page 5, line 21, strike "43.002(12)" and substitute "43.002(a)(12)".

Amendment No. 2

Representatives McReynolds and Flores offered the following amendment to Amendment No. 1:

Amend the Hartnett amendment to **CSHB 2530** by striking lines 10-12 and substituting the following:

(c) The prohibition of operating a video sweepstakes as set out in Subsection (b):

(1) does not authorize any otherwise illegal activity; and

(2) does not apply to a facility operated by a nonprofit organization of military veterans.

Amendment No. 2 was adopted without objection.

Representative Haggerty moved to table Amendment No. 1.

A record vote was requested.

The motion to table was lost by (Record 197): 61 Yeas, 81 Nays, 2 Present, not voting.

Yeas — Bailey; Capelo; Chavez; Cook; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Green; Gutierrez; Haggerty; Hawley; Hinojosa; Hochberg; Hodge; Hupp; Jones, J.; Kitchen; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Martinez Fischer; Maxey; McClendon; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Salinas; Solis; Thompson; Tillery; Turner, B.; Turner, S.; Uresti; Villarreal; Wilson; Wise; Yarbrough.

Nays — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chisum; Christian; Clark; Corte; Counts; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Edwards; Eiland; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Hamric; Hardcastle; Hartnett; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Isett; Janek; Jones, D.; Jones, E.; Junell; Keel; Keffer; King, T.; Krusee; Madden; Marchant; McCall; McReynolds; Miller; Mowery; Nixon; Pitts; Ramsay; Reyna, E.; Ritter; Sadler; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Truitt; Walker; West; Williams; Wohlgemuth; Wolens; Woolley; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Coleman; Geren; King, P.; Kolkhorst; Morrison.

STATEMENT OF VOTE

When Record No. 197 was taken, I was temporarily out of the house chamber. I would have voted no.

Kolkhorst

A record vote was requested.

Amendment No. 1, as amended, was adopted by (Record 198): 96 Yeas, 46 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Edwards; Eiland; Elkins; Ellis; Farabee; Gallego; George; Geren; Giddings; Glaze; Goodman; Gray; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Junell; Keel; Keffer; King, P.; Kolkhorst; Krusee; Madden; Marchant; McCall; McClendon; McReynolds; Merritt; Miller; Mowery; Nixon; Olivo; Pitts; Puente; Ramsay; Reyna, E.; Ritter; Sadler; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Truitt; Villarreal; Walker; West; Williams; Wohlgemuth; Wolens; Woolley; Zbranek.

Nays — Bailey; Chavez; Coleman; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Ehrhardt; Farrar; Flores; Garcia; Green; Haggerty; Hodge; Homer; Jones, J.; King, T.; Kitchen; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Martinez Fischer; Maxey; Menendez; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Pickett; Rangel; Raymond; Reyna, A.; Salinas; Solis; Thompson; Tillery; Turner, B.; Uresti; Wise; Yarbrough.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Hilbert.

Absent — Goolsby; Hawley; Morrison; Turner, S.; Wilson.

CSHB 2530, as amended, was passed to engrossment.

CSHB 2498 ON SECOND READING

(by Haggerty, Oliveira, Gallego, Solis, and Raymond)

CSHB 2498, A bill to be entitled An Act relating to certain cross-border health care plans offered by health maintenance organizations.

Representative Haggerty moved to postpone consideration of **CSHB 2498** until 10 a.m. Thursday, April 26.

The motion prevailed without objection.

CSHB 3121 ON SECOND READING

(by Ritter)

CSHB 3121, A bill to be entitled An Act relating to the exemption from ad valorem taxation for property used to control pollution.

CSHB 3121 was passed to engrossment.

HB 2179 ON SECOND READING

(by Hochberg and Crabb)

HB 2179, A bill to be entitled An Act relating to indemnification by the state of a chaplain or spiritual advisor under contract with certain state agencies.

HB 2179 was passed to engrossment.

CSHB 3309 ON SECOND READING

(by Hochberg)

CSHB 3309, A bill to be entitled An Act relating to the development, funding, and operation of the Southeast Texas Biotechnology Park.

CSHB 3309 was passed to engrossment.

HB 1762 ON SECOND READING

(by Green)

HB 1762, A bill to be entitled An Act relating to the issuance of certain driver's licenses by the Department of Public Safety and the provision of driver record information by the department and to fees and charges collected by the department.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Hupp, Representative Green offered the following committee amendment to **HB 1762**:

Amend **HB 1762** as follows:

(1) On page 2, line 7, after the word "license" and before the word "issued" insert "or identification certificate".

(2) On page 2, line 8, after the word "license" and before the words "by mail" insert "or certificate".

Amendment No. 1 was adopted without objection.

HB 1762, as amended, was passed to engrossment.

HB 3054 ON SECOND READING
(by Rangel)

HB 3054, A bill to be entitled An Act relating to student financial aid to supplement a TEXAS grant for a student of an institution of higher education.

HB 3054 was passed to engrossment.

CSHB 1493 ON SECOND READING
(by Wise)

CSHB 1493, A bill to be entitled An Act relating to the regulation of mortgage brokers.

Amendment No. 1

Representative Wise offered the following amendment to **CSHB 1493**:

Amend **CSHB 1493** as follows:

(1) On page 1, line 6, strike "commissioner" and substitute "finance commission".

(2) On page 1, line 10, strike "commissioner" and substitute "finance commission".

(3) On page 1, line 12, strike "commissioner" and substitute "finance commission".

(4) Strike SECTION 3 of the bill.

(5) Strike SECTION 5 of the bill.

(6) On page 4, line 27, through page 5, line 1, strike "savings and loan commissioner" and substitute "Finance Commission of Texas".

(7) Renumber the SECTIONS of the bill appropriately.

Amendment No. 1 was adopted without objection.

CSHB 1493, as amended, was passed to engrossment. (Berman recorded voting no)

CSHB 2586 ON SECOND READING
(by Swinford)

CSHB 2586, A bill to be entitled An Act relating to the regulation of public grain warehouse operators and other public warehouse operators; providing penalties.

Amendment No. 1

Representative Swinford offered the following amendment to **CSHB 2586**:

Amend **CSHB 2586** as follows:

- (1) On page 38, strike line 15 and substitute the following: "are joined in the suit."
- (2) On page 38, line 23, between the words "claims" and "on" add "with the department".

Amendment No. 1 was adopted without objection.

CSHB 2586, as amended, was passed to engrossment.

CSHB 2604 ON SECOND READING

(by McReynolds, Swinford, Cook, B. Turner, Clark, et al.)

CSHB 2604, A bill to be entitled An Act relating to assistance to certain volunteer fire departments and to the imposition of an assessment on certain insurers to finance that assistance.

Amendment No. 1

Representative McReynolds offered the following amendment to **CSHB 2604**:

Amend **CSHB 2604** as follows:

- (1) On page 3, line 4, strike "premium surcharge assessed" and substitute "assessment".
- (2) On page 3, line 5, strike "5.44" and substitute "5.102".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative McReynolds offered the following amendment to **CSHB 2604**:

Amend **CSHB 2604** as follows:

- (1) Strike page 4, line 27, and page 5, line 1, and substitute the following:

(d) An insurer may recover an assessment under this section by:

(1) reflecting the assessment as an expense in a rate filing required under this code; or

(2) charging the insurer's policyholders.

(e) An insurer that recovers an assessment under this section from the insurer's policyholders shall provide a notice to each policyholder of the amount of the assessment being recovered. The notice required by this subsection may be included on a declarations page, renewal certificate, or billing statement. The commissioner by rule may adopt a form for providing notice under this subsection.

- (2) On page 5, line 2, strike "(e)" and substitute "(f)".

Amendment No. 2 was adopted without objection.

CSHB 2604, as amended, was passed to engrossment.

CSHB 1001 ON SECOND READING
(by Naishtat and Wohlgemuth)

CSHB 1001, A bill to be entitled An Act relating to the review of the reimbursement methodology for and resource needs of nursing facilities.

CSHB 1001 was passed to engrossment.

HB 2991 ON SECOND READING
(by Gutierrez)

HB 2991, A bill to be entitled An Act relating to the duty of a peace officer to prevent certain juveniles from crossing the border between this state and Mexico.

HB 2991 was passed to engrossment.

HB 1448 ON SECOND READING
(by Oliveira)

HB 1448, A bill to be entitled An Act relating to authorizing the governing body of a municipality or a county to enter into a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone.

Amendment No. 1 (Committee Amendment No. 1)

Representative Oliveira offered the following committee amendment to **HB 1448**:

Amend **HB 1448** by adding a new section to the bill, appropriately numbered, to read as follows, and renumbering subsequent sections accordingly:

SECTION __. An agreement with the owner of a leasehold interest in tax-exempt property to exempt a portion of the value of tangible personal property located on the real property as described by Section 312.204(a), 312.210(b), or 312.402(a), Tax Code, as amended by this Act, that was entered into before the effective date of this Act is validated as of the date the agreement was entered into.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Longoria and E. Jones offered the following amendment to **HB 1448**:

Amend **HB 1448** as follows:

(1) On page 1, line 23, between "value of" and "tangible personal property", insert "property subject to ad valorem taxation, including the leasehold interest, improvements, or".

(2) On page 2, strike lines 5 and 6, and substitute "taxable real property or leasehold interests or improvements on tax-exempt real property may provide for the exemption of such taxable interests [~~the real property~~] in each year covered by the agreement only to the extent".

(3) On page 2, strike line 14, and substitute "including [~~and other than~~] inventory and or supplies. In a municipality that has a".

(4) On page 3, line 10, between "real property" and "that is located", insert "or leasehold interests or improvements on tax-exempt real property".

(5) On page 3, line 12, between "tangible personal property" and "located on", insert "or leasehold interests or improvements on tax-exempt real property".

Amendment No. 2 was adopted without objection.

HB 1448, as amended, was passed to engrossment.

CSHB 514 ON SECOND READING

(by Hinojosa, Keel, Chavez, Haggerty, Najera, et al.)

CSHB 514, A bill to be entitled An Act relating to a defense to certain gambling-related offenses for gaming activity conducted by an Indian tribe.

CSHB 514 — STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOMER: Mr. Chairman, it is my understanding that this bill is written to allow all three recognized tribes in the State of Texas to participate in the provisions of the bill. As written, do all three tribes, the Tigua, Kickapoo, and Alabama and Coushatta, all share the same benefits and rights granted under this bill?

REPRESENTATIVE HINOJOSA: They do.

HOMER: It is not your intent to exclude any of the recognized tribes from any of the provisions of this bill?

HINOJOSA: That is correct, only those that are recognized by the federal government. There are only three in the State of Texas.

REMARKS ORDERED PRINTED

Representative Homer moved to print remarks by Representative Homer and Representative Hinojosa.

The motion prevailed without objection.

A record vote was requested.

CSHB 514 was passed to engrossment by (Record 199): 82 Yeas, 60 Nays, 3 Present, not voting.

Yeas — Alexander; Bailey; Brown, F.; Burnam; Capelo; Chavez; Coleman; Cook; Danburg; Davis, Y.; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Green; Grusendorf; Gutierrez; Haggerty; Hawley; Hinojosa; Hochberg; Hodge; Homer; Hupp; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; King, T.; Kitchen; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McClendon; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Ritter; Sadler; Salinas; Solis; Solomons; Thompson; Tillery; Turner, B.; Turner, S.; Uresti; Villarreal; Wilson; Wise; Wolens; Yarbrough; Zbraneck.

Nays — Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Callegari; Carter; Chisum; Christian; Clark; Corte; Counts; Crabb; Craddick;

Crownover; Davis, J.; Delisi; Driver; Ellis; Farabee; Goodman; Gray; Hamric; Hartnett; Heflin; Hilderbran; Hill; Hope; Hopson; Howard; Hunter; Isett; Junell; Keffer; King, P.; Krusee; Marchant; McCall; McReynolds; Miller; Morrison; Mowery; Nixon; Pitts; Ramsay; Reyna, E.; Seaman; Shields; Smith; Smithee; Swinford; Talton; Telford; Walker; West; Williams; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker; Truitt; Uher(C).

Absent, Excused — Hilbert.

Absent — Geren; Goolsby; Hardcastle; Kolkhorst.

STATEMENT OF VOTE

When Record No. 199 was taken, I was temporarily out of the house chamber. I would have voted no.

Kolkhorst

RESOLUTIONS CALENDAR

The chair laid before the house the following resolution on committee report:

HCR 233 (by Bonnen and Uher), Memorializing congress to address issues pertaining to the Clean Air Act of 1990 as it pertains to Brazoria County.

HCR 233 was adopted.

RULES SUSPENDED

Representative Oliveira moved to suspend the 5-day posting rule to allow the Committee on Ways and Means to consider **HJR 105**.

The motion prevailed without objection.

Representative Hinojosa moved to suspend the 5-day posting rule to allow the Committee on Criminal Jurisprudence to consider **HB 553** and **SB 1747**.

The motion prevailed without objection.

Representative Sadler moved to suspend the 5-day posting rule to allow the Committee on Public Education to consider **HB 704**, **HB 3253**, and **SB 450**.

The motion prevailed without objection.

Representative Rangel moved to suspend the 5-day posting rule to allow the Committee on Higher Education to consider **SB 386** today at 5 p.m.

The motion prevailed without objection.

Representative Carter moved to suspend the 5-day posting rule to allow the Committee on Urban Affairs to consider **SB 1287** at the regular committee meeting at 2 p.m. or upon adjournment Wednesday, April 25.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Higher Education, 5 p.m. today, E2.010, for a public hearing, to consider pending bills and posted bills.

Select Committee on Teacher Health Insurance, upon adjournment today, Desk 102, for a formal meeting, to consider pending matters.

Economic Development, upon adjournment today, Desk 124, for a formal meeting, to consider pending business.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

ADJOURNMENT

Representative Hardcastle moved that the house adjourn until 10 a.m. tomorrow in memory of Electra Waggoner Biggs, renowned sculptor and granddaughter of W. T. Waggoner.

The motion prevailed without objection.

The house accordingly, at 4:41 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3691 (By Dunnam), Relating to the creation, administration, powers, duties, operation, and financing of a hospital district to be known as the West Medical District; authorizing a tax; granting the authority to issue and refund bonds; and granting the power of eminent domain.

To County Affairs.

HB 3692 (By Coleman), Relating to the creation of the Greater Southeast Management District; providing authority to impose a tax and issue bonds.

To County Affairs.

HB 3693 (By Keffer), Relating to the creation, administration, powers, duties, operation, and financing of the Lake Granbury Water Improvement District.

To Natural Resources.

HB 3694 (By Solis), Relating to an annual salary supplement paid by Cameron County to the local administrative district judge in Cameron County.

To Judicial Affairs.

HCR 254 (By Ramsay), Directing the Department of Protective and Regulatory Services in conjunction with the United Ways of Texas to develop a multiagency and local effort to study issues relating to at-risk youth in nonurban areas.

To County Affairs.

HCR 255 (By Talton), In memory of Tillman Bascome McHenry, Sr., of Deer Park.

To Rules & Resolutions.

HCR 256 (By Gallego), Memorializing congress to relocate the U.S. Border Patrol training academy to the southwest Texas border region.

To State, Federal & International Relations.

HCR 257 (By Gallego), Honoring the retirement of Anna Maria Saldana.

To Rules & Resolutions.

HR 792 (By B. Turner, Crabb, and Alexander), Honoring James Grayson for 55 years of service to the Texas Department of Transportation.

To Rules & Resolutions.

HR 797 (By Ellis), Honoring the 2001 Goodrich High School basketball team for winning the UIL Class 1A Division II boys' state basketball championship.

To Rules & Resolutions.

HR 810 (By Krusee), Honoring the 2000 Round Rock Express baseball team for its outstanding inaugural season.

To Rules & Resolutions.

HR 812 (By Solis), Congratulating Santiago and Maria Solis of Harlingen on the occasion of their 44th wedding anniversary.

To Rules & Resolutions.

HR 813 (By Dukes), Recognizing June 8-9, 2001, as Taylor-Fields-Hobby Family Reunion Days.

To Rules & Resolutions.

HR 814 (By Allen), Congratulating Scott and Marissa Gilmore of Austin on the birth of their daughter, Claudia Michelle Gilmore.

To Rules & Resolutions.

HR 815 (By Hilderbran), Honoring Colonel William R. "Randy" Furr of Pflugerville for his military service.

To Rules & Resolutions.

HR 817 (By Gallego), In memory of JD Holman of Alpine.
To Rules & Resolutions.

HR 818 (By Gallego), In memory of Holly Hollingsworth Ziler of Dell City.

To Rules & Resolutions.

HR 819 (By Gallego), In memory of Rex Ivey of Alpine.
To Rules & Resolutions.

HR 820 (By Callegari), Recognizing April 25, 2001, as Katy Day at the Capitol.

To Rules & Resolutions.

HR 823 (By Chavez), Recognizing Keep America Beautiful and Keep El Paso Beautiful for their outstanding efforts organizing the 19th annual Great American Cleanup.

To Rules & Resolutions.

HR 824 (By Chavez), Honoring Juanita H. Quinteros of El Paso for her accomplishments.

To Rules & Resolutions.

HR 825 (By Gutierrez), Honoring Lucile Hendricks of McAllen for her community service.

To Rules & Resolutions.

HR 826 (By Gutierrez), In memory of Leslie L. Gilmore of McAllen.

To Rules & Resolutions.

HR 827 (By Gutierrez), In memory of Robert Lord Gilmartin of McAllen.

To Rules & Resolutions.

HR 828 (By Gutierrez), Commending John Barrera of Mission for his tireless efforts in helping people to become U.S. citizens.

To Rules & Resolutions.

HR 829 (By Gutierrez), Honoring Colonel Alfredo Longoria, Jr., of Edinburg for his military achievements.

To Rules & Resolutions.

HR 830 (By Gutierrez), In memory of McAllen police chief Alex Longoria.

To Rules & Resolutions.

HR 831 (By Gutierrez), Honoring Maria Vallejo Sanchez of McAllen on her 90th birthday.

To Rules & Resolutions.

HR 832 (By Gutierrez), In memory of Alex Pierro of McAllen.

To Rules & Resolutions.

HR 833 (By Gutierrez), Congratulating the McAllen Kiwanis Club on its 65th anniversary.

To Rules & Resolutions.

HR 834 (By Gutierrez), Honoring Jean Tracy Palmer of McAllen on the occasion of her 80th birthday.

To Rules & Resolutions.

HR 835 (By Gutierrez), In memory of Jorge A. Morin of McAllen.

To Rules & Resolutions.

HR 836 (By Gutierrez), Congratulating Alfredo Munguia of McAllen for being elected president of the Rio Grande Valley Builders Association.

To Rules & Resolutions.

HR 837 (By Gutierrez), In memory of Ramon L. de la Garza of Mission.

To Rules & Resolutions.

SB 27 to State Affairs.

SB 40 to Higher Education.

SB 51 to Public Health.

SB 292 to Pensions & Investments.

SB 618 to Juvenile Justice & Family Issues.

SB 704 to Public Education.

SB 1047 to Criminal Jurisprudence.

SB 1182 to State Affairs.

SB 1185 to Land & Resource Management.

SB 1202 to Criminal Jurisprudence.

SB 1304 to Public Safety.

SB 1421 to Criminal Jurisprudence.

SB 1444 to Natural Resources.

SB 1539 to State, Federal & International Relations.

SB 1574 to Ways & Means.

SB 1600 to Natural Resources.

SB 1735 to Public Education.

SJR 47 to Ways & Means.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

Senate List No. 15

SB 181, SB 479, SB 481, SB 509, SB 611, SB 627, SB 628, SB 640, SB 738, SB 774, SB 797, SB 831, SB 835, SB 989, SCR 12, SCR 20

House List No. 35**HB 1019, HCR 219, HJR 47****MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

Message No. 1**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Tuesday, April 24, 2001

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:**SB 590** Jackson

Relating to electric utility service to tenants of marinas; providing penalties.

SB 850 Barrientos

Relating to benefits for certain disabled peace officers.

SB 1311 Staples

Relating to the challenge of a voter registration.

SB 1778 Lucio

Relating to the collection of costs in criminal cases.

Respectfully,

Betty King
Secretary of the Senate

Message No. 2**MESSAGE FROM THE SENATE****SENATE CHAMBER**

Austin, Texas

Tuesday, April 24, 2001 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 919 Goodman SPONSOR: West, Royce
Relating to the uniform enforcement of protective orders from other states.

HB 1086 Solis, Jim SPONSOR: Duncan
Relating to a grant program to provide surplus agricultural products to organizations that serve needy or low-income individuals.

Respectfully,

Betty King
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, April 24, 2001 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 800 Wentworth
Relating to the regulation of the subdivision of land under the jurisdiction of counties.

SB 876 Moncrief
Relating to the administration of restraint, seclusion, and emergency psychoactive medication to residents of certain health care facilities.

SB 896 Shapiro
Relating to funds and taxes for county roads.

SB 1016 Madla
Relating to the review of financial audits of regional planning commissions.

SB 1198 Carona
Relating to inspection of elevators, escalators, moving sidewalks, and related equipment; providing an administrative penalty.

SB 1201 Shapiro
Relating to the punishment of certain offenses involving the breach of computer security.

SB 1344 Barrientos
Relating to certain municipal firefighters and police officers entitled to additional wages; providing a civil penalty.

SJR 32 West, Royce

Proposing a constitutional amendment authorizing municipalities to donate outdated or surplus firefighting equipment or supplies to underdeveloped countries.

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 23

Appropriations - **HB 253, HB 1839**

Civil Practices - **HB 1119, HB 2664, HJR 22**

County Affairs - **HB 798, HB 2318, HB 3443, HB 3680**

Criminal Jurisprudence - **HB 141, HB 313, HB 687, HB 1102, HB 1328, HB 2048, HB 2085, HB 2351, HB 2856, HB 2890, SB 214, SB 917, SB 1074**

Elections - **HB 709, HB 1180, HB 2434, HB 2903, HB 3305, SB 79**

Environmental Regulation - **HB 525, HB 2649, HCR 226, SB 687, SB 1561**

Financial Institutions - **HB 2155**

Higher Education - **HB 1211**

Human Services - **SB 297**

Juvenile Justice & Family Issues - **HB 2108**

Natural Resources - **HB 2403, HB 2404, HB 3111, HB 3299, HB 3682, SB 649, SB 1629**

Public Education - **HB 447, HB 729, HB 1088, HB 1296, HB 1442, HB 2125, HB 2205, HB 3108, HB 3164, HB 3631, SB 108**

Public Health - **HB 1183, HB 1537, HB 2287, HB 2419, HB 2989, HB 3507, SB 660**

Public Safety - **HB 396**

Transportation - **HB 115, SB 888, SB 889**

Ways & Means - **HB 1200**

ENGROSSED

April 23 - HB 688, HB 695, HB 815, HB 996, HB 1216, HB 1281,

**HB 1678, HB 1685, HB 1688, HB 1755, HB 1763, HB 1837, HB 1901,
HB 3181, HB 3335, HB 3450, HJR 8, HJR 45, HJR 81**

ENROLLED

April 23 - HB 808, HB 1212, HB 1753

SENT TO THE GOVERNOR

April 23 - HB 808, HB 1212, HB 1753

RECOMMENDATIONS FILED WITH THE SPEAKER

**April 23 - HB 3634, HB 3635, HB 3636, HB 3640, HB 3641, HB 3642,
HB 3644, HB 3647, HB 3648, HB 3651, HB 3652, HB 3654, HB 3655,
HB 3656, HB 3657, HB 3658, HB 3659**